



DIREZIONE GENERALE

Prot.: 40916/RU

Roma, 9 febbraio 2021

CIRCOLARE N. 5-2021

AUTORIZZAZIONE DI PERFEZIONAMENTO ATTIVO PER ALCOOK ETILICO TRASFORMATO IN LIQUIDO LAVAVETRI

Il Gruppo Esperti Dogane – Sezione Procedure Speciali – della Commissione Europea, nel corso di una riunione periodica con la partecipazione di rappresentanti della Commissione e degli Stati membri dell'UE, ha proceduto, ai sensi dell'art. 211 paragrafo 6 del Regolamento UE n.952/2013, all'esame di una istanza^{1}^{2} di perfezionamento attivo presentata dalla delegazione olandese, per la trasformazione di alcool etilico (NC 2207 1000 19) di provenienza da Paesi extra UE in liquido per la pulizia dei vetri (NC 3820 00 00 90).

Infatti, essendo l'alcool etilico un prodotto sottoposto a misure di politica agricola rientrante in una delle ipotesi previste dall'art. 166 paragrafo 1 b) del Regolamento UE n.2446/2015, il rilascio dell'autorizzazione predetta è condizionato al preventivo esame, in sede unionale, delle condizioni economiche.

L'esame ha avuto esito positivo e tra le motivazioni poste a fondamento del parere viene menzionato il drastico cambiamento delle condizioni di mercato nell'UE, con riferimento all'etanolo, a causa della crisi pandemica da Covid-19. Nelle valutazioni espresse in sede unionale viene osservato come la necessità di disinfettanti per le mani abbia fatto incrementare notevolmente la domanda di etanolo e di conseguenza anche i prezzi dell'etanolo agricolo prodotto nell'UE. Non ritenendo probabile una diminuzione della domanda di etanolo nei prossimi mesi, viene considerata favorevolmente la disponibilità di ulteriori quantitativi di prodotto sul mercato unionale.

Pertanto, in considerazione del suddetto parere favorevole, l'Amministrazione doganale olandese richiedente può rilasciare l'autorizzazione di perfezionamento attivo con validità di anni tre e per un quantitativo totale di TN 144.523,2 di alcool etilico da trasformare in liquido per la pulizia dei vetri.

È stato altresì precisato che l'autorizzazione per il perfezionamento attivo potrà essere rilasciata in casi simili anche se, oltre all'alcool etilico, gli altri componenti utilizzati nella lavorazione siano diversi da quelli indicati nell'istanza sottoposta al Gruppo Esperti per l'esame, a condizione che il prodotto finale ottenuto sia lo stesso (liquido per la pulizia vetri di cui al codice NC 3820 00 00 90).

^{1} Cfr. istanza presentata dall'operatore olandese.

^{2} Allegato 1.

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Si evidenzia che, secondo quanto disposto dall'articolo 259, paragrafo 5, del Regolamento UE n.2447/2015, *“le conclusioni raggiunte sulle condizioni economiche vengono prese in considerazione dall'autorità doganale interessata e da qualsiasi altra autorità doganale che si occupa di domande o autorizzazioni simili”*.

Pertanto, ove eventuali analoghe istanze – concernenti la merce in importazione, l'attività di trasformazione nonché il prodotto trasformato della stessa tipologia – siano presentate agli Uffici competenti di questa Agenzia, le condizioni economiche dovranno intendersi del pari soddisfatte, senza necessità di richiedere un nuovo parere in sede unionale.

Considerato che al termine del triennio sopra indicato, l'operazione dovrà essere sottoposta ad un nuovo esame delle condizioni economiche alla luce delle variazioni del mercato dell'alcool etilico, le eventuali autorizzazioni rilasciate dovranno avere scadenza entro il termine massimo del mese di dicembre 2023.

Gli uffici competenti opereranno in conformità alle indicazioni contenute nella presente, fornendo assistenza agli operatori interessati.

Marcello Minenna



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs Policy, Legislation, Tariff
Customs Legislation

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Working paper

CUSTOMS EXPERT GROUP

Section 'Special Procedures other than transit'

Subject: IP of **fermented ethanol** falling under TARIC code 2207 10 00 19, into processed product **screen wash** falling under CN code 3820 00 00.

Examination of the economic conditions in accordance with Articles 211(6) UCC and 259 UCC-IA.

Disclaimer:

This document reflects solely the application for IP as submitted by an operator via the relevant MS and cannot in any circumstances be regarded as the official position of the Commission.

Application for IP authorization of an economic operator and analysis of economic conditions



Request for IPR
authorisation + ann

Request for inward processing authorization

Applied for by : [REDACTED].

On behalf of: [REDACTED]

Description of the goods to be processed:

Undenatured fermented ethyl alcohol of an alcoholic strength by volume of 95 % vol or higher. CN code 22071000. Quantity for a period of three years: 144.523,2 mt with a customs value of Euro 65.035.440,00. Per year this represents 48.174,4 mt kg with a customs value of Euro 21.678.480,00

The ethyl alcohol is to be processed per year to 50,000 mt of screen wash (Alcofreeze Base) of CN code 38200000, using the following recipe:

In WT/%		
Ethanol	min.	[REDACTED] %
MEG	min.	[REDACTED] %
MEK	min.	[REDACTED] %
IPA	min	[REDACTED] %
Benzoate denatonium	min	[REDACTED] gr/hlap
Tensio-actif (soap)	min	[REDACTED] %

The end product of 50,000 mt screen wash will consist of

Monoethyleneglycol	Min. 750 mt (1,5 wt%)
Isopropanol	Min. 500 mt (1 wt%)
MethylEthylKeton	Min. 500 mt (1 wt%)
Denatonium benzoate	Min. 595,3 kg (1 gr/hlap)
Anionic Tenside	Min. 75 mt (0,15 wt%)
Ethanol 96	48 174,4 mt (96,34 wt%)

[REDACTED] is of the opinion that the economic conditions are fulfilled for inward processing of the ethyl alcohol (hereafter: ethanol) referred to above for the following reasons.

1. Equal treatment

According to article 211, paragraph 1, letter a of the Union Customs Code an authorisation from the customs authorities shall be required for the use of the inward processing procedure.

Paragraph 4, beginning, letter b of article 211 determines that such an authorisation shall be granted when the essential interests of Union producers would not be adversely affected by an authorisation for a processing procedure.

Paragraph 6 of article 211 determines that where evidence exists that the essential interests of Union producers are likely to be adversely affected, an examination of the economic conditions shall take place at Union level.

This examination at Union level is to be undertaken by the Customs Expert Group, subgroup Special Measures other than Transit¹.

In a meeting of 8 November 2019, the subgroup decided that the economic conditions were met for an application for inward processing of synthetic ethanol of CN code 2207 10 00 90 into screen wash of CN code 3820 00 00 90, and that the essential interests of Union producers are not adversely affected. This decision was published on 17 December 2019 by the European Commission².

██████ refers to this decision of the subgroup and asks for equal treatment of its request for the same authorisation. According to the subgroup the essential interests of Union producers are not adversely affected, and ██████ is of the opinion that this should also apply to its application.

2. Tariff classification

This application is for fermented ethanol as referred to in heading 2207 1000 19 of the Combined Nomenclature. The application referred to in the above-mentioned decision of the subgroup was made by a Swedish competitor of ██████ and was for non-fermented ethanol of heading 2207 1000 90.

These two subheadings were created to indicate the source of the ethanol but chemically there is no difference whatsoever between these two categories. They are completely interchangeable. This is also reflected in the heading itself as both categories are identical up to the 8th digit.

According to the provisions of Annex A of Commission Delegated Regulation (EU) 2015/2446 only the 4-digit CN code is relevant for an inward processing authorisation. However, products that fall under Annex 71-02 of this regulation must be listed by their 8-digit CN code³.

¹ According to NOTE TO THE COMMISSION EXPERT GROUP REGISTRY, Ref. Ares (2016)2109319 - 03/05/2016

² Ref. Ares (2019) 7759950 - 17/12/2019

³ Title I Common data requirements for applications and decisions, chapter 2 Notes relating to data requirements, Group 5 Description of goods, 5/1 Commodity code, Table columns 8a and 8b

Judging from the minutes of a meeting of the same subgroup on 17 September 2019 where the Swedish application was first discussed, it appears that the European Commission (not the subgroup) admitted that fermented (agricultural) and non-fermented (synthetic) ethanol are interchangeable. According to the Commission the products are nevertheless from a customs perspective different because of a supplemental TARIC-code and the application of specific agriculture provisions. The Commission repeats its statement about synthetic and agricultural ethanol being interchangeable in the meeting of 8 November 2019. This argument is irrelevant for the application of the economic conditions.

The subgroup has always reviewed the essential interests of Union producers by looking at the interests of all EU producers of ethanol, irrespective of the source of the ethanol. This is also logical because ethanol of heading 2207 1000 is interchangeable.

From minutes of earlier meetings of the subgroup (including the one whereby an earlier request from ██████ was dealt with) it appears that the interests of the whole EU ethanol industry were assessed, and that no difference was made according to the source of the ethanol.

The difference that the Commission refers to is just an administrative identifier which has no bearing on the determination whether the essential interests of Union producers are affected.

Now that the subgroup has determined that these interests are not (no longer) affected, a mere administrative denomination cannot make any difference.

In so far as the Commission believes that specific agricultural conditions apply for fermented ethanol and not for other types of ethanol, ██████ refers to Annex 71-02, part 2, of Regulation (EU) 2015/2446, in which ethanol of heading 2207 10 is listed without any reference to agricultural or non-agricultural ethanol. For the application of the legal requirements of Annex 71-02, therefore ethanol of various sources must be regarded as one and the same product.

The evaluation by the subgroup of the economic conditions of these products, as referred to in Annex 71-02, for the application of the above-mentioned Swedish competitor, has resulted in the decision that the essential interests of Union producers are not (or no longer) affected.

██████ appeals to this decision and is of the opinion that further evaluation into the economic conditions is no longer necessary and that its application also does not affect the interests of Union producers.

In addition, ██████ wants to mention that since the request was filed EU market conditions for ethanol have drastically changed due to the Covid-19 crisis. The need for hand sanitisers and disinfectants has exploded the demand for ethanol and consequently prices of agricultural ethanol produced in the EU have increased considerably. It is not likely that this demand will diminish anytime soon.

According to Independent Commodity Intelligence Service (ICIS), a well-known publication reporting on the development of commodity prices, the European traditional non-fuel ethanol market continued to be predominantly driven by the demand from the hand sanitizer and disinfectants sector during the summer months. ICIS expects that the ethanol demand pull for the production of these products is to remain firm as schools and offices open across the continent. On-site usage of hand sanitizers at workplaces and schools is likely to keep the market tight for the rest of the year.

The rise in Covid-19 cases in some countries highlight the existing threat of cases potentially rising through Europe later in the year, which could exert further supply-related pressure on an already-tight market (report 29 July 2020).

Later reports predict that this demand for hand sanitisers and disinfectants may continue during the winter months (reports 6, 12 and 26 August 2020) which coincide with the months of peak ethanol demand for the production period of screenwash products. At the same time the production of ethanol in countries like France might be impacted by a much lower expected sugar beet yield leading to supply shortages and even higher prices (report 19 August 2020). Because of a virus infestation in addition to drought, French experts estimate that the French yield will be down by 30 to 50 percent (USDA Foreign Agricultural Service report 12 August 2020).

The latest ICIS report of 26 August 2020 predicts that mediocre harvest yields will likely impact Q4 negotiations as industrial 99% ethanol demand remains largely firm due to the pull from the hand sanitizers and disinfectants sectors.

Copies of these reports are enclosed in the annex of this document.

In summary ICIS reports indicate that

- 1) A potential new spike in the demand of hand sanitizer in Q3/Q4 in case of a resurgence of Covid-19 across Europe could push the market to a shortage again, and spike in prices.
- 2) Current prices of industrial ethanol are currently historically very high, a trend that will continue in the coming months/years.
- 3) Industrial ethanol imports into Europe are lower because many supplying countries (South America, Pakistan) are exporting less, keeping the product to respond to their own internal demand for hand sanitation products
- 4) French production levels will be strongly impacted by the very bad sugar beet crop for 2021 sugar/ethanol production (down up to 50%), also reducing availability and increasing prices. According to ICIS's market knowledge, French production represent 30% of the installed industrial production in Europe. This means that the sugar beet issue represents a potential reduction in the production estimated between 10% and 15% of the total industrial ethanol market.
- 5) The fuel ethanol market is very tight, making the situation on the industrial market even worse (some industrial grade being sold in the fuel ethanol, fuel ethanol being too

expensive to allow a refining for use into the industrial market). The fuel ethanol is expected to remain tight for the rest of the year.

In the minutes of the meeting of the subgroup on 8 November 2019 the Commission considered that the price argument could be taken on board but noted that the associations had different views on the prices raised by the applicant. [REDACTED] and [REDACTED] are of the opinion that because of the drastic changes in circumstances during this year (2020), as highlighted above, the objections of the associations against prices do not have any merit.

Article 166 UCC-DA is in this respect also not applicable because fermented ethanol is not subject to an agricultural measure when imported (paragraph 2), and as the changed market conditions show there is no evidence that the essential interests of Union producers are likely to be adversely affected (paragraph 3).

In conclusion, the distinction made between agricultural and synthetic ethanol has no base in the law regarding inward processing. The products are interchangeable, and the Committee has already decided that the essential interests of Union producers are not affected by granting an inward processing authorisation for the production of screen wash using imported ethanol. Price increases and reduced availability due to the Covid-19 crisis and production yields have removed any concern about an effect on Union produced agricultural ethanol.