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EUROPEAN COMMISSION

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Proposal for a

**REGULATION (EU) No xxxx/2010 OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL**

of

**amending Council Regulation (EC) No 1234/2007
(Single CMO Regulation) as regards the aid granted in the framework of the German
Alcohol Monopoly**

EXPLANATORY MEMORANDUM

Currently as an exception to State aid rules, the German authorities may grant State aid under the German Alcohol Monopoly for products marketed, after further transformation, by the monopoly, as ethyl alcohol of agricultural origin. The total allowed State aid is limited to EUR 110 million per year.

According to Article 182(4) of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation), the derogation ends on 31 December 2010. This draft regulation extends the application of the derogation and proposes that the production/sales by the monopoly shall gradually decrease so that the monopoly will finally cease to exist as from 1 January 2018. Two categories of distilleries are dealt with differently:

- the agricultural bonded distilleries (*landwirtschaftliche Verschlussbrennereien* - there are currently about 670 distilleries of this type) processing mainly cereals and potatoes, may remain in the monopoly until the end of 2013. Their production will however be gradually reduced from 540.000 hl in 2011, to 360.000 hl in 2012 and 180.000 hl in 2013. When leaving the Monopoly the agricultural bonded distilleries may receive a compensatory aid of EUR 257,50 per hl of nominal distilling rights. This compensatory aid is granted at the latest on 31 December 2013, but may be paid in several instalments until 31 December 2017.
- the small-scale flat-rate distilleries (*Abfindungsbrennereien*), distillery users (*Stoffbesitzer*) and fruit cooperative distilleries (*Obstgemeinschaftsbrennereien*) which are locally-oriented and produce very small quantities of alcohol from fruits (up to 300 litres per year) may produce in total up to 60.000 hl annually until the end of 2017.

The total amount of aid paid from 1 January 2011 to 31 December 2013 shall not exceed EUR 269,9 million and the total amount of aid paid from 1 January 2014 to 31 December 2017 shall not exceed EUR 268 million.

Germany will continue to present an annual report to the Commission on the functioning of the system. Moreover, from 2013 to 2016 Germany will on a yearly basis include an annual phasing-out plan for the small-scale flat-rate distilleries, distillery users and fruit cooperative distilleries.

The proposal has no financial implications for the Community budget.

Proposal for a

REGULATION (EU) No xxxx/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

**amending Council Regulation (EC) No 1234/2007
(Single CMO Regulation) as regards the aid granted in the framework of the German
Alcohol Monopoly**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first paragraph of Article 42 and Article 43(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After transmission of the proposal to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The specific rules on the aid that Germany may grant in the framework of the German Alcohol Monopoly ("the Monopoly") as provided for in Article 182(4) of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)² will expire on 31 December 2010.
- (2) According to the report submitted by the Commission pursuant to Article 184(3) of Regulation (EC) No 1234/2007, the importance of the Monopoly has decreased in recent years. Between 2001 and 2008, about 70 agricultural bonded distilleries (*landwirtschaftliche Verschlussbrennereien*) left the Monopoly. The volumes sold by the Monopoly have fallen since 2003 and the budget decreased from EUR 110 million in 2003 to EUR 80 million in 2008. 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. An extension of a few more years is deemed necessary to complete the process of abolishing the Monopoly as well as the aid and allow for its definitive phasing-out.

¹ OJ C ..., p. ...

² OJ L 299, 16.11.2007, p. 1.

- (3) In some parts of Germany, alcohol distilleries are traditionally linked to small and medium size farms and play an important role for the farms to continue their activities by providing an additional income to farmers and securing employment in rural areas. Agricultural bonded distilleries processing mainly cereals and potatoes should therefore continue to be able to receive aid through the Monopoly until 31 December 2013. By that date, all bonded distilleries should have entered the free market. This deadline also coincides with the new programming period for rural development 2014-2020, meaning for Germany a possibility to transfer parts of the funds used for the Monopoly into their rural development programme.
- (4) The small-scale flat-rate distilleries (*Abfindungsbrennereien*), distillery users (*Stoffbesitzer*) and fruit cooperative distilleries (*Obstgemeinschaftsbrennereien*) contribute in particular to the preservation of traditional landscapes and biodiversity by helping to preserve orchards, which supply distillers with raw material. Taking this into account as well as the fact that the production of those distilleries is local and very limited, they should continue to be able to benefit from the aid granted under the Monopoly for a final period until 31 December 2017. By this date, the Monopoly is to be abolished. In order to guarantee the closure character of this aid, Germany should on a yearly basis present an annual phasing-out plan from 2013.
- (5) The production of ethyl alcohol in the framework of the Monopoly is limited and corresponds at present to less than 10% of the total production of ethyl alcohol of agricultural origin in Germany. Considering, in particular, that all bonded distilleries shall have entered the free market by 31 December 2013 at the latest that percentage will decrease considerably after that date.
- (6) In order to ensure continuity in the granting of the aid, this Regulation should apply from 1 January 2011.
- (7) Regulation (EC) No 1234/2007 should therefore be amended accordingly.

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 182 of Regulation (EC) No 1234/2007, paragraph 4 is replaced by the following:

"4. By way of derogation from Article 180 of this Regulation, only Article 108(1) and the first sentence of Article 108(3) of the TFEU shall apply, until 31 December 2017, to the aid granted by Germany in the existing national framework of the German Alcohol Monopoly ("the Monopoly") for products marketed, after further transformation, by the Monopoly, as ethyl alcohol of agricultural origin listed in Annex I to the TFEU, provided that the following conditions are complied with:

- (a) the total production of ethyl alcohol under the Monopoly benefiting from the aid shall gradually decrease from the maximum of 600.000 hl in 2011, to 420.000 hl in 2012 and to 240.000 hl in 2013 and may amount to a maximum of 60.000 hl per year from 1 January 2014 until 31 December 2017, on which date the Monopoly shall cease to exist;

- (b) the production of agricultural bonded distilleries benefiting from the aid shall gradually decrease from 540.000 hl in 2011, to 360 000 hl in 2012 and 180.000 hl in 2013. By 31 December 2013 all agricultural bonded distilleries shall leave the Monopoly. When leaving the Monopoly the agricultural bonded distilleries shall be allowed to receive a compensatory aid of EUR 257,50 per hl of nominal distilling rights. This compensatory aid may be granted at the latest on 31 December 2013. It may, however, be paid in several instalments until 31 December 2017 at the latest;
- (c) the small-scale flat-rate distilleries, distillery users and fruit cooperative distilleries may benefit from the aid granted by the Monopoly until 31 December 2017, under the condition that the production benefiting from the aid does not exceed 60.000 hl per year;
- (d) the total amount of aid paid from 1 January 2011 to 31 December 2013 shall not exceed EUR 269,9 million and the total amount of aid paid from 1 January 2014 to 31 December 2017 shall not exceed EUR 268 million; and
- (e) before 30 June each year Germany shall submit a report to the Commission on the functioning of the Monopoly and the aid granted in the framework thereof in the previous year. Moreover, the annual reports to be submitted in 2013 to 2016 shall include an annual phasing-out plan for the following year concerning the small-scale flat-rate distilleries, distillery users and fruit cooperative distilleries."

Article 2
Entry into force

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

It shall apply from 1 January 2011.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President