

COMMISSION IMPLEMENTING DECISION

of 16 July 2012

on recognition of the 'Red Tractor Farm Assurance Combinable Crops & Sugar Beet Scheme' for demonstrating compliance with the sustainability criteria under Directives 98/70/EC and 2009/28/EC of the European Parliament and of the Council

(2012/395/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC ⁽¹⁾, and in particular Article 18(6) thereof,

Having regard to Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels ⁽²⁾ as amended by Directive 2009/30/EC ⁽³⁾, and in particular Article 7c(6) thereof,

After consulting the Advisory Committee established by Article 25, paragraph 2 of Directive 2009/28/EC,

Whereas:

- (1) Directives 98/70/EC and 2009/28/EC both lay down sustainability criteria for biofuels. Provisions of Articles 7b, 7c and Annex IV of Directive 98/70/EC are similar to provisions of Articles 17, 18 and Annex V of Directive 2009/28/EC.
- (2) Where biofuels and bioliquids are to be taken into account for the purposes referred to in Article 17(1)(a), (b) and (c) of Directive 2009/28/EC, Member States should require economic operators to show the compliance of biofuels and bioliquids with the sustainability criteria set out in Article 17(2) to (5) of Directive 2009/28/EC.
- (3) Recital 76 of Directive 2009/28/EC states that the imposition of an unreasonable burden on industry should be avoided and voluntary schemes can help create efficient solutions for proving compliance with these sustainability criteria.
- (4) The Commission may decide that a voluntary national or international scheme demonstrates that consignments of biofuel comply with the sustainability criteria set out in

Article 17(3) to (5) of Directive 2009/28/EC or that a voluntary national or international scheme to measure greenhouse gas emission savings contains accurate data for the purposes of Article 17(2) of this Directive.

- (5) The Commission may recognise such a voluntary scheme for a period of five years.
- (6) When an economic operator provides proof or data obtained in accordance with a voluntary scheme that has been recognised by the Commission, to the extent covered by the recognition decision, a Member State should not require the supplier to provide further evidence of compliance with the sustainability criteria.
- (7) The 'Red Tractor Farm Assurance Combinable Crops & Sugar Beet Scheme' was submitted on 4 April 2012 to the Commission with the request for recognition. This scheme covers cereals, oil seeds and sugar beet produced in the United Kingdom up to the first point of delivery of these crops. The recognised scheme should be made available at the transparency platform established under Directive 2009/28/EC. The Commission should take into account considerations of commercial sensitivity and may decide to only partially publish the scheme.
- (8) Assessment of the 'Red Tractor Farm Assurance Combinable Crops & Sugar Beet Scheme' found it to adequately cover the sustainability criteria in Article 7b(3), (4) and (5) of Directive 98/70/EC and Article 17(3), (4) and (5) of Directive 2009/28/EC, as well as applying up to the first point of delivery of these crops a mass balance methodology in line with the requirements of Article 7c(1) of Directive 98/70/EC and Article 18(1) of Directive 2009/28/EC. The scheme does not cover Article 7b(2) of Directive 98/70/EC and Article 17(2) of Directive 2009/28/EC but gives accurate data on two elements necessary for the purposes of Article 7b(2) of Directive 98/70/EC and Article 17(2) of Directive 2009/28/EC, in particular, the geographic area the crops come from and the annualised emissions from carbon stock changes caused by land-use change. A small percentage of members of the scheme do not cover the sustainability criteria for part of their land. The scheme indicates the status of full or partial compliance of the land of its members in its online member checker database and shows compliance of consignments with the sustainability criteria on the combinable crops passport, also referred to as post-harvest declaration.

⁽¹⁾ OJ L 140, 5.6.2009, p. 16.

⁽²⁾ OJ L 350, 28.12.1998, p. 58.

⁽³⁾ OJ L 140, 5.6.2009, p. 88.

- (9) The evaluation of the 'Red Tractor Farm Assurance Combinable Crops & Sugar Beet Scheme' found that it meets adequate standards of reliability, transparency and independent auditing.
- (10) Any additional sustainability elements covered by the 'Red Tractor Farm Assurance Combinable Crops & Sugar Beet Scheme' are not part of the consideration of this Decision. These additional sustainability elements are not mandatory to show compliance with sustainability requirements provided for by Directives 98/70/EC and 2009/28/EC,

HAS ADOPTED THIS DECISION:

Article 1

The voluntary scheme 'Red Tractor Farm Assurance Combinable Crops & Sugar Beet Scheme' for which the request for recognition was submitted to the Commission on 4 April 2012 demonstrates by means of its combinable crops passport that consignments of cereals, oil seeds and sugar beet comply with the sustainability criteria as laid down in Article 17(3), 17(4) and 17(5) of Directive 2009/28/EC and Article 7b(3), 7b(4) and 7b(5) of Directive 98/70/EC. The scheme also contains accurate data for purposes of Article 17(2) of Directive 2009/28/EC and Article 7b(2) of Directive 98/70/EC in as far as it concerns annualised emissions from carbon stock changes caused by land-use change (e_i) referred to in point 1 of part C of Annex IV to Directive 98/70/EC and point 1 of part C of Annex V to Directive 2009/28/EC, which it demonstrates to be equal to zero, and the geographic area referred to in point 6 of part C of Annex IV to Directive 98/70/EC and point 6 of part C of Annex V to Directive 2009/28/EC.

The voluntary scheme 'Red Tractor Farm Assurance Combinable Crops & Sugar Beet Scheme' may be used up to the first point of delivery for the consignments concerned for demonstrating compliance with Article 7c(1) of Directive 98/70/EC and Article 18(1) of Directive 2009/28/EC.

Article 2

The Decision is valid for a period of five years after it enters into force. If the scheme, after adoption of this Decision, undergoes changes to its contents in a way that might affect the basis of this Decision, such changes shall be notified to the Commission without delay. The Commission shall assess the notified changes with a view to establish whether the scheme is still adequately covering the sustainability criteria for which it is recognised.

If it has been clearly demonstrated that the scheme has not implemented elements considered to be decisive for this Decision and if severe and structural breach of those elements has taken place, the Commission may repeal this Decision.

Article 3

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

Done at Brussels, 16 July 2012.

For the Commission
The President

José Manuel BARROSO