

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1777
of 14 September 2023
introducing retrospective Union surveillance of imports of renewable ethanol for fuel

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports ⁽¹⁾, and in particular Article 10 thereof,

Having regard to Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries ⁽²⁾, and in particular Article 7 thereof,

After consulting the Committee on Safeguards and Common Rules for Exports,

Whereas:

- (1) According to Article 10 of Regulation (EU) 2015/478 Union surveillance may be introduced where the trend in imports of a product threatens to cause injury to Union producers and where the interest of the Union so requires. Article 7 of Regulation (EU) 2015/755 allows for the possibility to introduce surveillance where the Union's interests so require. Retrospective surveillance, requiring each Member State to transmit import data to the European Commission shortly after actual importation has taken place, may be introduced under both Regulations, respectively pursuant to Article 10(1)(a) and Article 7(1)(a).
- (2) Based on information available to the Commission, imports of renewable ethanol for fuel have increased recently in significant amounts.
- (3) Imports of bioethanol for fuel from all origins increased by close to 80 % between 2021 and 2022 (in the absence of TARIC codes, these volumes are based on full CN codes and may also include other types of bioethanol). The most important exporting countries in terms of volumes in 2022 were Brazil, the United States, the United Kingdom and Peru.
- (4) Additional analysis, based on extrapolated TARIC data for the three most representative CN codes (i.e., more than 90 % of TARIC level imports), has shown that imports of bioethanol for fuel increased by 45 % between 2021 and 2022. Additionally, an increase of another 43,5 % is observed in the first five months of the year 2023 compared to the first five months of the year 2022.
- (5) The top three exporting countries into the Union on that extrapolated basis are the United States, Brazil, and Peru. Pakistan is the fourth most important country in terms of quantities imported, showing the highest increase of imports at 179 % between 2021 and 2022. For the same period, imports from the United States increased by 96 %, and from Brazil by 37 %. Imports from Peru decreased by 13 %.
- (6) The EU market appears very attractive due to its high prices. Import prices from Brazil and the United States are more than 15 % lower than EU prices ⁽³⁾. Furthermore, both countries have very large production capacities.
- (7) As shown in the table below, the United States and Brazil are producing much more than their own domestic consumption which means that they have excess capacity for export markets. The EU consumption is around 4,6 million tonnes and US and Brazilian producers have a combined excess capacity of 5,5 million tonnes available for export, therefore capable to meet Union demand.

⁽¹⁾ OJ L 83, 27.3.2015, p. 16.

⁽²⁾ OJ L 123, 19.5.2015, p. 33.

⁽³⁾ Data provided by European Industry.

Table 1

Production and consumption in the year 2022

Year 2022 (tonnes)	United States	Brazil	EU
Production	46 210 800	22 549 600	3 970 000
Consumption	41 685 000	21 517 400	4 605 200
Excess capacity	4 525 800	1 032 200	- 635 200

- (8) The increase of imports coincides with a 10 % decrease in the market share of EU industry. The ratio of imports as compared to EU production surged from 21 % in 2021 to 39 % in 2022.
- (9) It is recalled that retrospective surveillance concerning imports of renewable ethanol for fuel ('bioethanol') was first introduced in November 2020 with Commission Implementing Regulation (EU) 2020/1628 ^(*). The Regulation introduced certain TARIC codes for a duration of one year.
- (10) The Implementing Regulation (EU) 2020/1628 expired on 4 November 2021 and therefore the codes were de-activated in the customs system. In 2021, imports of bioethanol had decreased and therefore, there were no grounds to prolong surveillance at that time.
- (11) However, on the basis of recent import trends of renewable ethanol for fuel, the large available production capacities in particular in the US and Brazil as stated in recital (7), and the lower level of prices of imports into the Union, injurious effects to Union producers may therefore further worsen in the near future.
- (12) As provided by the Union Industry, since Q4 2021, most of the economic indicators have been deteriorating, showing signs of injury suffered by the sampled EU producers in the period from Q4 2021 to Q3 2022:
- Production (10 % decrease)
 - Capacity utilization (9 % decrease)
 - Union sales volume (6 % decrease)
 - Inventories (15 % increase)
 - Investment (44 % decrease)
 - Profitability (57 % decrease)
- (13) Thus, the Union interest requires that imports of renewable ethanol for fuel should be subject to retrospective Union surveillance in order to provide statistical information, before the issuance of official import statistics, permitting rapid analysis of import trends from all third countries. Rapid trade data is necessary to deal with the vulnerability of the Union market of renewable ethanol for fuel and to detect sudden changes on the world market.
- (14) Since ethanol for fuel can be classified in various CN headings containing other products, specific TARIC codes should be created in order to ensure adequate monitoring limited only to the relevant products. The scope of the retrospective surveillance shall include the products listed in the Annex to this Regulation.
- (15) In order to allow for a proper monitoring of import trends and to avoid that the relevant TARIC codes are de-activated again, retrospective surveillance should be introduced for a period of three years,

^(*) Commission Implementing Regulation (EU) 2020/1628 of 3 November 2020 introducing retrospective Union surveillance of imports of renewable ethanol for fuel (OJ L 366, 4.11.2020, p. 12).

HAS ADOPTED THIS REGULATION:

Article 1

1. The imports of renewable ethanol for fuel listed in the Annex to this Regulation shall be subject to retrospective Union surveillance in accordance with Regulations (EU) 2015/478 and (EU) 2015/755.
2. The classification of the products covered by this Regulation is based on TARIC. The origin of the products covered by this Regulation shall be determined in accordance with Article 60 of Regulation (EU) No 952/2013 of the European Parliament and of the Council ⁽³⁾.

Article 2

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

This Regulation shall apply from the day following its publication in the *Official Journal of the European Union* and shall remain in force for three years.

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

Done at Brussels, 14 September 2023.

For the Commission
The President
Ursula VON DER LEYEN

⁽³⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

ANNEX

List of products subject to retrospective Union surveillance

The product concerned subject to retrospective surveillance is renewable ethanol for fuel, i.e. ethyl alcohol produced from agricultural products (as listed in Annex I to the Treaty on the Functioning of the European Union), denatured or undenatured, excluding products with a water content of more than 0,3 % (m/m) measured according to the standard EN 15376, but including ethyl alcohol produced from agricultural products (as listed in Annex I to the Treaty on the Functioning of the European Union) contained in blends with gasoline with an ethyl alcohol content of more than 10 % (v/v) intended for fuel uses. The product concerned also covers ethyl alcohol produced from agricultural products (as listed in Annex I to the Treaty on the Functioning of the European Union) contained in Ethyl tert-butyl ether (ETBE).

The product scope is exclusively limited to renewable ethanol used for fuel applications. Thus, synthetic ethanol and renewable ethanol destined to applications other than fuel, i.e. industrial and beverage use, is not covered.

The product concerned currently falls under the following CN and TARIC codes:

CN Codes	TARIC Code extensions
ex 2207 10 00	11
ex 2207 20 00	11
ex 2208 90 99	11
ex 2710 12 21	10
ex 2710 12 25	10
ex 2710 12 31	10
ex 2710 12 41	10
ex 2710 12 45	10
ex 2710 12 49	10
ex 27101250	10
ex 2710 12 70	10
ex 2710 12 90	10
ex 2909 19 10	10
ex 3814 00 10	10
ex 3814 00 90	70
ex 3820 00 00	10
ex 3824 99 92	66