



23 April 2018

(18-2520)

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Committee on Technical Barriers to Trade

Original: English

NOTIFICATION

The following notification is being circulated in accordance with Article 10.6

1. Notifying Member: <u>SWEDEN</u> If applicable, name of local government involved (Article 3.2 and 7.2):
2. Agency responsible: Swedish Ministry of the Environment and Energy Name and address (including telephone and fax numbers, email and website addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above: National Board of Trade (Kommerskollegium) Box 6803 113 86 Stockholm +46 8 690 48 00 kommerskollegium@kommers.se http://www.kommers.se
3. Notified under Article 2.9.2 [X], 2.10.1 [], 5.6.2 [], 5.7.1 [], other:
4. Products covered (HS or CCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable): Biofuels and bioliquids
5. Title, number of pages and language(s) of the notified document: Ordinance amending the Ordinance (2011:1088) on sustainability criteria for biofuels and bioliquids
6. Description of content: The regulations specify when a substance is considered to be an end product or a primary aim of a production process. If a process is usually optimised to produce a substance, it shall be considered to be an end product or a primary aim of the process. However, even a substance for which a production process is not usually optimised to produce it shall be considered to be an end product or the main purpose of the process if the substance has a use other than for energy purposes and, over the last 2-year period or the shorter part of the time the substance has been on the market, it has had an average retail price per kilo which, over the same period, exceeds 40 % of the average retail price per kilo of the substance for which the process is usually optimised. The latter does not apply to substances resulting directly from agricultural, aquaculture, fishing or forestry activities. Since it is clear from certain EU legal acts, inter alia the ILUC Directive and Commission interpretive communication 2010/C 160/02, that the substances mentioned in points (e), (f) and (h)–(o) of Annex IX to the ILUC Directive shall not be considered to be end products directly produced by a production process or the main aim of the process, this is stated in a provision of the proposed ordinance. The wording of § 17 in the ordinance is amended in relation to the current wording in order to better reflect the situations in question.

7. Objective and rationale, including the nature of urgent problems where applicable: The aim of the provisions is to provide guidance for when a substance is considered to be a residue or a main aim of a production process. According to the definition of 'residue' in the ILUC Directive, it shall be assessed whether the production process has been deliberately modified to produce the substance and whether a substance is the residue(s) directly produced by a production process or the main aim of the process. In this assessment, a basis is necessary, and importance should be placed on the substance's financial value and use. However, the substances treated as residues at EU level, inter alia by the ILUC Directive and Commission interpretive communication 2010/C 160/02, shall not be included in the assessment. The provisions are objective and directly linked to this aim. No less intrusive measures to achieve the aim are deemed to exist. The measures are proportionate and are a prerequisite for providing the market with guidance.
8. Relevant documents: Draft of the proposed technical regulation
9. Proposed date of adoption: Not specified Proposed date of entry into force: Not specified
10. Final date for comments: 90 days from notification
11. Texts available from: National enquiry point [X] or address, telephone and fax numbers and email and website addresses, if available, of other body: https://members.wto.org/crnattachments/2018/TBT/SWE/18_2142_00_e.pdf