COMMISSION IMPLEMENTING DECISION (EU) 2019/142

of 29 January 2019

on recognition of the 'U.S. Soybean Sustainability Assurance Protocol' for demonstrating compliance with the sustainability criteria under Directives 98/70/EC and 2009/28/EC of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

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 and amending Council Directive 93/12/EEC ([1]), and in particular the second subparagraph of Article 7c(4) thereof,

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 ([2]), and in particular the second subparagraph of Article 18(4) thereof,

Whereas:

(1) Articles 7b and 7c of, and Annex IV to, Directive 98/70/EC and Articles 17 and 18 of, and Annex V to, Directive 2009/28/EC lay down similar sustainability criteria for biofuels and bioliquids, and similar procedures for verifying that biofuels and bioliquids comply with those criteria.

(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 must require economic operators to show that biofuels and bioliquids fulfil the sustainability criteria set out in Article 17(2) to (5) of that Directive.

(3) The request for recognition that the 'U.S. Soybean Sustainability Assurance Protocol' demonstrates that consignments of biofuel comply with the sustainability criteria set out in Directives 98/70/EC and 2009/28/EC was submitted to the Commission on 15 November 2018. The scheme is based in 16305 Swingley Ridge Road, Suite 200 Chesterfield, MO 63017, United States. It covers soybeans produced in the United States and the chain of custody from the farms producing the soybeans to the place where they are exported.

(4) In assessing the 'U.S. Soybean Sustainability Assurance Protocol' the Commission found that the scheme covers adequately the sustainability criteria set out in Directives 98/70/EC and 2009/28/EC, and uses a mass balance system in accordance with Article 7c(1) of Directive 98/70/EC and Article 18(1) of Directive 2009/28/EC.

(5) The assessment of the 'U.S. Soybean Sustainability Assurance Protocol' found that it meets adequate standards of reliability, transparency and independent auditing and complies with the methodological requirements set out in Annex IV to Directive 98/70/EC and in Annex V to Directive 2009/28/EC.

(6) The measures provided for in this Decision are in accordance with the opinion of the Committee on the Sustainability of Biofuels and Bioliquids,

HAS ADOPTED THIS DECISION:

Article 1

The 'U.S. Soybean Sustainability Assurance Protocol' ('the scheme'), submitted for recognition to the Commission on 15 November 2018, demonstrates that consignments of biofuels and bioliquids produced in accordance with the standards for the production of biofuels and bioliquids set in the scheme comply with the sustainability criteria laid down in Article 7b(3), (4) and (5) of Directive 98/70/EC and Article 17(3), (4) and (5) of Directive 2009/28/EC.

The scheme contains accurate data for the 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_l) 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.

([1]) OJ L 350, 28.12.1998, p. 58.
([2]) OJ L 140, 5.6.2009, p. 16.

Article 2

The Commission shall be notified without delay of any change in the contents of the scheme, as submitted for recognition to the Commission on 15 November 2018, that might affect the basis of this Decision.

The Commission shall assess the notified changes with a view to establishing whether the scheme still adequately covers the sustainability criteria for which it is recognised.

Article 3

The Commission may repeal this Decision, inter alia, in any of the following circumstances:

(a) where it is clearly demonstrated that the scheme does not implement elements considered to be important for this Decision or if serious and structural breach of those elements has taken place;

(b) where the scheme fails to submit annual reports to the Commission pursuant to Article 7c(6) of Directive 98/70/EC and Article 18(6) of Directive 2009/28/EC;

(c) where the scheme fails to implement the standards of independent auditing specified by means of implementing acts pursuant to the third subparagraph of Article 7c(5) of Directive 98/70/EC and the third subparagraph of Article 18(5) of Directive 2009/28/EC or carry out improvements to other elements of the scheme considered to be important for a continued recognition.

Article 4

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

It shall apply until 30 June 2021.

Done at Brussels, 29 January 2019.

For the Commission
The President
Jean-Claude JUNCKER