

Brussels,

FINAL MINUTES

Meeting of the Civil Dialogue Group on Horticulture, olives and spirits - sub group Spirit drinks

Date: 15 March 2019

Chair: Mr. Nick SOPER

Organisations present: All Organisations were present, except CEJA, BEUC, ECVC, EFNCP, COGECA, IFOAM, SACAR, BirdLife, TomatoEurope

1. Approval of the agenda (and of the minutes of previous meeting¹)

2. Nature of the meeting

The meeting was non-public.

3. List of points discussed

a. Study on "The Civil Dialogue Groups for the Common Agricultural Policy - Analysis of EU Policy Consultation"

Deloitte provided an overview (presentation is available on CIRCABC) of the ongoing consultation and review of the operation of the Civil Dialogue Group system. Among other things this will involve: an e-survey which will be sent to current and previous attendees at CDG meetings; a series of interviews with CDG members, officials, supply chain partners and the ombudsman's office; and a workshop in July to discuss findings thus far. The conclusions from the CDG stock-taking meeting on 1 February would also be taken into account. The review will conclude in October and DG Agri would then decide on the next steps.

FoodDrinkEurope and other representatives undertook to be fully involved in the review, and stressed the value of and support for the CDG system and the importance of the formal dialogue with officials, since this covers a wide range of topics and involves a broad set of representatives from each sector.

b. Spirit drinks regulation - update on developments and discussion on ongoing concerns

FoodDrinkEurope and CELCAA expressed their appreciation for the long, frequent and constructive dialogue with DG Agri on numerous issues as the new spirit drinks regulation evolved. In the update from the Commission and the subsequent exchanges, the following points emerged:

¹ If not adopted by written procedure (CIRCABC)

- The USA was the only WTO member to submit comments following the TBT notification of the compromise agreement. The Commission made one technical adjustment as a consequence (to ensure GIs in transit to be included in the scope of the Regulation) but, on other aspects of the USA position, clarifications will be provided and it will be explained that the category requirements in the new law have not changed and are there to preserve traditional production methods and fair competition. The Distilled Spirits Council of the US also wrote to the Commission asking for guidelines on compound terms and allusions. COM agreed and will work on it with Member States, the sector and the CDG.
- The draft text of the new law, as amended, had now been endorsed by Parliament's ENVI committee and in plenary. Council is expected to do likewise by the end of March/beginning of April, thereby permitting formal publication by early May at the latest.
- Once the law is published, a delegated act will be required to create the new GI register and it is hoped this will be in place within a year. The new register would include third country GIs that had been registered directly. Until the new register is operational, Annex III of 110/2008 will stay in force. Meantime, new GIs can be added via implementing legislation.
- While an Annex on "criaderas y solera" ageing had been retained, no derogation from the current age labelling rules had been agreed but a new empowerment was introduced allowing the Commission to adopt a derogation by delegated act in the future. Due to the opposition of certain MS to such empowerment, the Commission delivered a statement to the Council declaring that transparency, consumer protection and fair competition would be taken into account, should delegated acts on labelling rules be adopted.
- Draft guidelines on how to apply new rules on compound terms and allusions and, possibly, mixtures and blends would be discussed with the sector and also presented to a future Civil Dialogue Group meeting. Commission would greatly welcome input from the sector about the potential difficulties the new rules could cause and possible changes that could address these issues. If deemed necessary, these guidelines might also cover other labelling rules in the new regulation.
- There are no current plans for the Commission to start work either to identify the new sweetening substances that can be used in spirits or to establish conversion factors. It was thought the sector would need to initiate a formal request through a Member State. This request would have to include more information on the substances and categories at issue, as well as any scientific information that is available on conversion ratios. In any event, nothing could take effect before the new law becomes applicable (approximately: May 2021). The Commission wondered if allowing low-calorie sweeteners might ever conflict with the nutrition claims directive; FoodDrinkEurope indicated that the facility to offer reduced calorie spirits, likely to focus on liqueurs, would provide considerable advantages to consumers, and that the restrictions in other laws are fully understood.
- With the definitions of a number of categories having changed, seemingly to reflect some traditional practices hitherto not clearly reflected in the legislation, FoodDrinkEurope registered concerns that new law which now enshrined such production methods would not be applicable until approximately May 2021. The Commission indicated that some changes were designed to overcome limitations imposed by other EU laws, and that others were designed to introduce more flexibility for certain categories.
- As regards GIs, AGRI pointed out the last achievements of the political agreement: all decisions will be taken by Implementing Regulation (Registration, Approval of an amendment, Cancellation) while the register will be set up via a Delegated Regulation.

Following a remark of the USA the Article 1 on the scope of the Regulation (just a formality, to be consistent with the rule giving protection against goods in transit, that is not being marketed in the EU customs territory). The GIs that obtain protection between the entry into force of the new EP and Council Regulation and the adoption of the Delegated Commission Regulation setting the new Register will benefit the legal status of GI (they are registered by a Regulation) but they will be included in the new Register only when the new Register will be available.

c. Technical files for GIs - update from COM

The Commission informed that, with the assessment of all technical files for established GIs having been completed, an 'information notice' will be published in the Official Journal (C-series). This would be the formal announcement that the established GIs had been approved and the 'notice' would include a consolidated version of 110/2008's Annex III. The list will include the 9 GIs which are to be withdrawn from the Annex III but the administrative procedure is still ongoing.

The publication would have the advantage of transparency, visibility and availability in all EU languages. It was hoped publication would be by the end of March.

In a first step, e-ambrosia will provide the list of all registered GIs for spirit drinks. Additional details on individual GIs (the technical files) would be included in the new GI register in due course.

FoodDrinkEurope expressed its gratitude both for the assessment programme and the solution reached to publicise formal endorsement of the established GIs.

d. Brexit

The Commission advised that while it was reassuring that the discussions at the CDG stock-taking meeting on 1 February did not reveal any gaps in the mutual analysis by The Commission and stakeholders on the consequences of Brexit, its work to prepare and to put in place contingency measures continued. Information notices from DG TAXUD, DG SANTE and others provided the detail; DG AGR had that precise morning published a Webpage on Brexit and EU agriculture. While COM was preparing the EU side, it advised traders also to monitor the UK's information notices.

As regards GI protection, which FoodDrinkEurope and CELCAA stressed was critical, COM thought the UK's expressed intentions were to replicate the EU's schemes. On tariffs, it was too early to be able to draw conclusions from the recently-published UK schedules, except that spirits (other than rum) and EAAO for use other than biofuels seem to be zero-rated. Many uncertainties remained: treatment of third country wines imported to the EU via the UK; what the UK would do as regards standards and certification; the situation on labelling in the event of 'no-deal'. Indeed, in the case of a hard Brexit, a number of difficulties and uncertainties remains.

e. Presentation and exchange of views on the Communication 'Towards a stronger international role of the euro' (COM(2019)796 of 5.12.2018)

Commission made a presentation setting out that, among other things, the Euro comprised 20% of global currency reserves and 36% of trade transactions but this was below the level

before the 2007 financial crisis. A Communication had been published providing information on the advantages of using the Euro in, e.g. energy and agri-food markets. A 'staff working document' with further reflections would be issued after the summer.

The Commission's online questionnaire would remain open for another week or so and the Commission hoped traders would provide as much information as possible. FoodDrinkEurope cautioned that while it would encourage its members to provide macro-economic information, they felt appropriate, as a trade association it could not do anything that might be perceived as involvement of any sort in companies' pricing decisions.

f. Labelling - ingredient / nutrition - implementing the March 2018 commitment

FoodDrinkEurope explained that its relevant member had recently launched a comprehensive website including details of ingredients, nutrition and production for every category of spirit made in the EU. This went well beyond the information consumers could receive under any legislative requirement and was in line with the commitments made in the sector's March 2018 proposal, responding to the Commission's request a year earlier. In addition, work was continuing with the EU's 'bar code' organisation to make key information immediately accessible through consumers' smartphones.

COM indicated that it recognised the effort already made by the sector to improve the amount and quality of information provided to consumers and would welcome being kept abreast of further developments regarding the EU-wide on-line initiatives. It reiterated the Commissioner's preference to have some information on label while acknowledging that having ingredient information available electronically, as long as it is easily accessible, would be valuable.

COM also recalled the sector's effort to improve its self-regulatory proposal on alcohol labelling as presented in March 2018. It welcomed the work of the spirits sector on a Memorandum of Understanding (MoU), to which the Commission could then react positively provided that its content is further reinforced in terms of commitments and timeline/targets. It was hoped the discussions could conclude before the summer break.

COM noted that discussions regarding a possible MoU were also taking place with beer producers while the wine sector had sought to introduce labelling rules through the CAP reform. The Commission's position on the latter has not yet been finalised and there are concerns on certain aspects.

EPHA registered concerns regarding aspects of the spirits sector's recent initiatives to provide additional information. They wondered about the use of 'units' and responsible drinking guidelines, since neither are harmonised at EU level. The sector responded that its efforts to improve consumer information are ongoing and will inevitably evolve further; nonetheless, and notwithstanding the absence of formal EU harmonisation on certain areas, comprehensive and consumer-friendly information on the ingredients, nutrition value and production process for every category of spirit had been provided - a highly transparent and forward-thinking initiative.

Copa-Cogeca commented that any agreement for producers to put an energy declaration on the label, or for information to be accessible via a bar code, could cause difficulties for the numerous small producers in the EU. COM responded that it could be difficult to accept special treatment for small spirits producers, not least because small producers in every other sector had to comply when the food labelling regulation (1169/2011) was introduced.

It was accepted, however, that longer transition periods and the sector's proposed gradual roll-out of energy information on label might help.

FoodDrinkEurope expressed its considerable gratitude to the Commission for the constructive dialogue around labelling and the best ways to secure improvements for consumers.

g. Labelling - origin labelling (Regulation 2018/775) - developments regarding the treatment of GI spirits

The Commission informed about the ongoing work on Commission's guidance on the application of Article 26(3) of Regulation (EU) No 1169/2011 related to the origin indication of the primary ingredient. This document is intended to assist the food business operators and Member States on how the new rules, applicable from 1 April 2020, should be interpreted. Once those aspects had concluded, it would be possible to start the reflection on the exemptions for GIs (and TM), on which FoodDrinkEurope had registered concerns.

h. Labelling - new language requirements in Romania (sector's presentation)

FoodDrinkEurope indicated that it was continuing to research new requirements in Romania for the translation of non-mandatory labelling information; early analysis suggested this breached EU rules. The Commission confirmed that the beer sector had also raised concerns and that further investigation was required.

i. Ireland - public health bill

FoodDrinkEurope promised to write to the Commission with further information on its concerns regarding the Irish law. The Commission noted that elements of the law, notably as regards the requirements to state calories and grams of alcohol per container, appeared to go beyond EU requirements. It had not seen the implementing rules for the health warning so had not formulated a position. However, it supported the responses sent by Ireland following the comments received during the TBT notification process.

j. AOB

i. Review of EU excise tax directive 92/83

FoodDrinkEurope undertook to reiterate its position on the current review as there were a number of possible improvements which it hoped could be made to the proposal.

ii Review of distance selling and 'indicative levels'

FoodDrinkEurope urged the Commission to provide an update on developments, including at the next CDG meeting.

iii Taxation: Hungary and Greece

FoodDrinkEurope thanked the Commission warmly for the efforts made, including the Court of Justice referral, to remove the discriminatory excise tax regime. The new tax structure was now in place.

The referral regarding similarly inappropriate tax preferences in Greece had not yet yielded a ruling from the EU court, and FoodDrinkEurope reminded the Commission that

that case, while important, would resolve only one issue. There remains a far greater problem with the excise structure and excessive levels of tax which, since the crisis, have caused the legitimate spirits market to collapse and allowed the black market to thrive.

iv Promotion of agricultural products

Following the Commission's recent letter, FoodDrinkEurope will encourage its members to respond with suggestions as to how best to prioritise markets / spending in the 2020 programme.

4. Conclusions and Next Steps

- All parties stressed the importance of the formal dialogue that the CDG system provides and the value that it adds, in particular because there are no other fora in which such a broad range of issues and perspectives can be discussed directly with officials.
- The sector and Commission will continue to work closely together regarding the new spirit drinks regulation, notably as regards the proposed guidelines on labelling of allusions and mixtures.
- The spirits sector looks forward to the publication of the 'information notice' on established GIs and stands ready to be involved if required on the further work to create the GI register in the new regulation.
- Spirits producers will liaise closely with the Commission so as to make progress with formalising the new provisions allowing the use of a broader range of sweetening substances.
- All sides will work closely together to try to minimise the adverse impact from the UK's departure from the EU.
- The Commission and spirits producers will continue their discussions on a possible MoU and the sector will keep the Commission abreast of progress in its ongoing technical discussions designed to ensure consumers will be able easily to access information through their smartphones.
- The sector will provide information regarding what appear to be problematic labelling rules in Romania.
- The sector will provide further views to the Commission regarding the Irish public health bill.

5. Next meeting

The next meeting is currently scheduled to take place on Friday 29 November 2019.

6. List of participants - Annex

Disclaimer

"The opinions expressed in this report represent the point of view of the meeting participants from agriculturally related NGOs at community level. These opinions cannot, under any circumstances, be attributed to the European Commission. Neither the European Commission nor any person acting on behalf of the Commission is responsible for the use which might be made of the here above information."

List of participants– Minutes

Civil Dialogue Group on Horticulture, olives and spirits - sub group Spirit drinks
Date: 15 March 2019

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<i>TOTAL</i>	20