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24 March 2016

FINAL MINUTES

Civil Dialogue Group “Horticulture, Olives and Spirits”
Tuesday 15 March 2016, 09.30 – 12.00
Brussels

LIST OF PARTICIPANTS

Stakeholders:

FoodDrinkEurope: Nick Soper (Chair), Lionel Lalagüe, Bettina Breuer, Tom Sallis, Constance Balsamo, Yapa Thepkanjana, Laura Kamel, Lisa-Marie Salley (note taker).

COPA: Mr. Lukas, Mr. Panagiotou, Mr. Erdrien, Mr. Giammidis

COGEGA: Mr. Imbert, Ms Predic.

CEJA: M Del Moral, Mr. Castro.

CELCAA: Ana Isabel Alves, Paul Mennesson, Ottavio Cagiano de Azevedo,

PAN Europe: Ms Slabe

IFOAM: Mr. Magiola.

Commission:

Ersilia Moliterno (AGRI C2), Maria Iusco (AGRI B3), Heather Jones (TAXUD) Roberta Buttini (AGRI), Daniel Hanekuyk (GROW B4).

1. APPROVAL OF THE AGENDA AND REPORT OF THE LAST MEETING (06/10/2015)

The agenda was adopted with the inclusion of two points under AOB:

- Swedish retail monopoly proposal to introduce bottle weight limit and new tax on heavier containers
- Labelling

The minutes of the last meeting were adopted.

2. ALIGNMENT OF REGULATION 110/2008

FoodDrinkEurope introduced the discussion, emphasising that Regulation 110/2008 is of critical importance to the sector. COM explained that since the Cabinet gave the green light to proceed, procedures are being aligned but with few changes to substance. Procedures for registering a new GI would henceforth feature in Regulation 1151/2012 *mutatis mutandis*.

The stakeholder dialogue had been very welcome with some suggested improvements already taken into account while others could be discussed when the text is before Council and the European Parliament. Adoption of the draft by the Commission is due in the second quarter, with inter-service consultation and legal service approval thought unlikely to be problematic.

FoodDrinkEurope asked about GI registration changes, commenting that Regulation 1151 was not suited to the spirit drinks sector and that it would introduce unwelcome complications such as allowing the Agriculture Product Quality Policy Committee to be involved in decision-making when this should remain wholly in the ambit of the Committee for Spirit Drinks. COM advised that art. 7 - 8 and 48 - 54 of 1151 would apply to spirits. While COM agreed to reflect further on the role of the Committees it also advised that the involvement of 2 of them on the same issue would break new ground. FoodDrinkEurope reiterated that the spirits sector should not be subject to rules unless they had gone through the normal procedures involving the Committee for Spirit Drinks.

COGECAs and FoodDrinkEurope stressed the importance of the GI definition for spirits in the new law, as opposed to the PGI definition in 1151, and asked about the logo. COM confirmed the GI definition would not change and that PGI rules would not apply to spirits; in addition, that there was no intention to move from the logo's voluntary usage in the spirits sector. While FoodDrinkEurope emphasised that the differences between GI and PGI meant any use of the logo on a spirit risked causing confusion, COM advised that some GI Technical Files actually required the use of the logo.

3. GIs- TECHNICAL FILES AND UPDATED RULES IN THE PROPOSED LEGISLATION

In assessing the Technical Files submitted, questions had been sent to Member States. Although some Files had been submitted before the entry into force of R716/2013, MS were very cooperative and accepted to provide the revised document (following questions from COM) in the format of the technical file. COM advised that, although it would indicate to Member States when it was satisfied with individual files, final approval would not take place until examination of all the files was complete.

COGECAs asked why additional information historical data was requested given that the products had been legally traded and protected for many years. COM indicated that difference has to be made between reputation and historical data. According with R 110/2008, the link for a GI can be based on a specific characteristics due to the geographical area or on a reputation. When the technical files for established GIs do not include information on the first possibility, questions are asked regarding supporting elements of reputation.

The purpose is to improve as much as possible the technical files so they could also be used for enforcement (within EU) but also when it sought protection for the GIs in 3rd country negotiations.

A new Annex III to R 110/2008 had been prepared and submitted for a vote at the Committee for Spirit Drinks on 16 March. This reflected the removal of 87 GIs in 110/2008 for which no Technical File had been submitted. A further revision to Annex III would seem to be required once all the files had been assessed. While it remains unclear precisely how this will happen, one possibility is through a Commission Communication.

4. EXCISE TAX - REVIEW OF DIRECTIVE 92/83

TAXUD presented an update on its evaluation of the alcohol structures directive, noting that it had now entered the case study stage. COM urged the sector to maintain its close involvement on the dossier and advised that, overall, responses to the consultant's survey had been broadly representative. The draft final report is due by 20 May and completion must be at the end of June.

The case studies will focus on four main areas: classification; reduced rates for small producers; denatured alcohol; and production for own consumption. Classification is a particular concern, with 17 Member States indicating they faced problems in this area. The consultant is looking for concrete examples in its further discussions with stakeholders.

FoodDrinkEurope hoped the review might also lead to improvement in the minimum rates directive (92/84) but COM cautioned that the last attempt (2006) had not succeeded. And in the current review, a legislative proposal would only be put forward if there were demonstrable signs of Member State support. It appeared that the latter were interested in improvements for small producers, the issue having been discussed at a recent FISCALIS seminar. One option might be to provide a volume threshold below which there was no excise due, and only production volumes above that subject to tax.

Denatured alcohol is another area where improvements seem possible, with Member States having discussed the harmonisation of denaturing formulae since 2008. In conjunction with the JRC, it appeared that a common denaturing method, including a chemical 'marker', might be agreed. It was hoped that, among other things, this might make it easier to detect 'cleaned-up' alcohol in fake spirits, an issue on which the spirits sector and DG Taxud / JRC were both involved. FoodDrinkEurope noted that the term 'cleaned-up' (in the sense of alcohol from which denaturants had been removed) was also being used to denote fermented alcohol that was subject to further processing; COM agreed there was scope for confusion and to consider how best to address this.

5. METROLOGY-REVIEW OF PQ AND OTHER DIRECTIVES

FoodDrinkEurope explained why the bottle size and other EU metrology rules remain essential for the sector, not least in that they were simple and predictable. COM advised that its review of Directive 2007/45 (as required in the law) was ongoing, albeit it had been delayed by the need to reflect the Commission's 'better regulation' requirements. The consultant's report and Commission recommendations were due to be published by the end of March.

COM was grateful for the spirit sector's input and thought that, while not much had been heard from consumers, overall the consultation had heard from a representative sample of stakeholders. FoodDrinkEurope advised that, during the far larger review in the early 2000s, consumers had also been hard to engage, a consequence, then as now, that they face no problems from the EU's bottle size and other metrology rules.

In terms of any legislative proposal emanating from the review, COM advised that this would need an Impact Assessment and that currently this was not foreseen. Beyond that, COM could not comment on the content of its report.

6. SERBIA – NEW EXCISE LAW AND EFFORT TO REMOVE DISCRIMINATION

Following a complaint from the spirits sector which showed that EU products faced tax discrimination in Serbia, COM had investigated and agreed that the accession country is in breach of its commitments, notably under Article 37 of the Stabilisation and Association Agreement. In addition, imported spirits faced a higher administrative burden than their Serbian competitors in terms of bank and strip stamp guarantees.

While Serbia had undertaken to amend its excise law to remove the excise discrimination, it did not do so, possibly a consequence of forthcoming elections. COM has therefore decided to introduce an opening benchmark in the tax chapter of accession negotiations. While precise timeframes for the next steps were not possible to predict at present, FoodDrinkEurope was very grateful for the pressure on Serbia to remove the discrimination and asked to be kept informed of developments, in particular as regards the actual wording of the benchmark.

7. AOB

Sweden - alcohol monopoly

The retail monopoly for alcoholic beverages, Systembolaget, is seeking to bring in a regulation fixing a maximum bottle weight for the products it sells; heavier bottles would pay a new tax. The EU spirits sector is greatly concerned that such a measure, which is not found anywhere else in the world, is likely to cause trade barriers and goes well beyond the sole rationale permitting the monopoly to exist, namely consumer health. COM felt any such move might not need to be notified, but FoodDrinkEurope commented that it seemed likely any such requirement would need to be notified at WTO level; that being so, it would be odd if EU Member States were not also given the chance to consider the measure.

Labelling

COM advised that DG SANTE was unable to attend the meeting but had indicated that its forthcoming report on ingredient / nutritional labelling for alcoholic beverages would be factual and was due to appear in autumn 2016. FoodDrinkEurope was grateful for the update and hoped that officials might be available at the next CDG meeting to discuss both the report and all the other ongoing labelling initiatives.

8. NEXT MEETING

The next meeting will be held in October 2016.

Disclaimer

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