

Brussels,

FINAL MINUTES

Meeting of the Civil Dialogue Group HORTICULTURE, OLIVES AND SPIRITS

Subgroup Spirits

29 November 2019

Chair: Mrs Sarah Melina SIEBEL (FoodDrinkEurope)

Organisations present: All Organisations were present, except BEUC, BirdLife Europe, COGECA, ECVC, EFFAT, EFNCP, IFOAM EU Europe, SACAR, TomatoEurope

1. Approval of the agenda

The agenda of the meeting was adopted without any changes.

Participants were informed about the translations available and the translators were thanked for their support. The group was informed that Mr Scannell would attend the meeting for an update on Brexit whenever his schedule allows for and that ongoing discussions would be put on hold for his Brexit update.

2. Nature of the meeting

The meeting was non-public.

3. List of points discussed

a. Spirit Drinks Regulation – *update on the ongoing discussions on the draft Commission's Guidelines on certain provisions on spirit drinks labelling*

The newly published Regulation (EU) 2019/787 (Spirit Drinks Regulation) is only fully applicable as concerns GI-related provisions, while most of the new production and labelling provisions will only be applicable as of 25 May 2021. To address a request made by some MS during the legislative process for the adoption of the new Spirit Drinks Regulation, the Commission is working on a document providing guidance as to how to apply some labelling provisions – particularly on compound terms, allusions and mixtures – in order to avoid possible, future litigations based on different interpretations.

Questions, especially on liqueurs, remain as there are overlapping rules allowing for liqueurs combined with other spirit drinks to be both allusions and mixtures. The

Commission attempts to provide some legal clarity and good practices through guidelines.

The Commission pointed out that the draft guidelines have not been formally submitted to other Commission services for consultation, yet, and that a legal check is outstanding. The non-legally binding nature of Commission guidelines was highlighted. The current draft guidelines will be discussed with Member States during the Spirit Drinks Committee on 5 December 2019.

The Commission clarified that the QUID rules laid down in Regulation (EU) No 1169/2011 apply to spirit drinks. The Commission published in 2017 a Commission Notice on the application of the principle of quantitative ingredients declaration (QUID)¹.

Whilst the finalization of the draft guideline depends on the discussions with Member States' representatives, the Commission aims to finalize the draft guidelines by Summer 2020, followed by the internal Commission adoption process, which may take approximately 6 months.

CELCAA thanked the Commission for the good and timely work, which is very much appreciated by the spirit drinks sector. CELCAA highlighted that the timely provision of the guidelines will make it easier for the producers of spirit drinks to ensure that labels will comply with the new rules as of May 2021. Further, the QUID rules will add a significant level of complexity to the general principles of labelling and may not be the most consumer-friendly way to provide information on spirit drinks. It was pointed out that attention needs to be paid to the wording when translating the Commission labelling guidelines.

FDE joined CELCAA in complimenting the Commission on the good and very helpful work. They pointed out that the rules on compound terms, mixtures and allusions require indeed some clarifications, in particular in the case of liqueurs. The Champagne Sorbet case was referenced as an example of the need for clear rules to protect GIs. Whilst consumers need to be informed about the ingredients of products, GIs may not be misused.

The Commission clarified the horizontal application of QUID rules and made reference to its notice on QUID rules which includes a non-exhaustive list of examples which could be exempted from the QUID rules. The Commission acknowledged that combining the provisions in the Spirit Drinks Regulation and QUID rules may be challenging in some cases. The Industry is invited to share examples of spirit drinks in which the application of the new Spirit Drinks Regulation in combination with QUID rules may be challenging. During the legislative process, Member States did not agree to include an explicit exemption for spirit drinks from QUID rules.

b. Labelling – ingredient/nutrition – implementing the March 2018 commitment & the MoU – *update from spiritsEUROPE*

¹ [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017XC1121\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017XC1121(01))

FDE presented the ongoing work on providing nutrition information and ingredient listing of spirit drinks to consumers as set out in the spiritsEUROPE Memorandum of Understanding (MoU), signed by spiritsEUROPE and its members on 4 June 2019 in Paris in the presence of EU Health Commissioner Andriukaitis. The MoU is a direct development and continuation of the March 2018 commitment on the provision of consumer information put forward by the wine, beer and spirit drinks sector. A progress report was published in October 2019, as set out in the March 2018 commitment pointing out the spirit drinks sector had successfully undertaken in the past months:

1. Development of the Memorandum of Understanding
2. Widening the signatory base of the MoU
3. A gradually growing number of SKUs with energy information on-pack is available on the market
4. Broader availability of digital information in line with the MoU's provisions (www.responsibledrinking.eu)
5. Established cooperation between GS1 in Europe and spiritsEUROPE
6. Helpdesk & implementation support to the membership
 - Implementation Guideline to the MoU
 - Question & Answer document
 - Road-show across Europe
 - Practical advice on the MoU implementation

As concerning the rollout and monitoring targets as set out in the MoU, it was highlighted that it is the spirit drinks sector's objective to ensure that the collective total EU market share (by volume) of products placed on the EU market providing energy information on-label and list of ingredients online will constitute at least:

- 25 % by 31 December 2020
- 50 % by 31 December 2021
- 66 % by 31 December 2022

Illustrative examples for the provision of energy information on pack were showcased and it was stressed that the minimum font size for written text is 1.2mm and that kcal can be emphasized. Energy information will be provided per 100ml (as set out in the FIC regulation) and per portion of 30ml, unless otherwise mandated by national legislation or if other portions are customarily used for certain spirit drinks. Also, the portions per packaging will be indicated.

In addition to the on-label efforts, consumer information will be provided on-line. In cooperation with project partner GS1, a new standard to share consumer information is currently under development which will be available to consumers via an e-label. An example of how the online display of the information could look like was shown. The on-line solution will be mass-scalable to ensure all EU citizens have access to the information.

A One-stop-shop web-portal providing consumers with easy access to detailed information on all spirit drinks legally sold in the EU (www.responsibledrinking.eu) is available as part of the sector's commitment. It has been translated into Spanish, German and Finnish to date. Translations in additional languages are expected as a consistent push to boost the availability of nutrition and ingredient information and in line with the commitment submitted to the European Commission.

The Commission highlighted the importance of providing information on sugar contained in spirit drinks.

EPHA asked for information regarding the relative coverage of spirit drinks producers covered by the MoU and why the commitment of the sectors does not go beyond 66%. Further, it was highlighted that the www.responsibledrinking.eu website may not be the best forum to share consumer information and why consumer information are provided by 100ml and 30ml. It was pointed out that the mock-up of how the e-label with consumer information is not easily legible due to the colors chosen.

The Commission welcomed the initiative and the MoU and highlighted that indeed the sector acts on a voluntary basis, however the Commission will monitor closely the sector's progress. . It was acknowledged that the common goal is to provide consumer information on responsible drinking and the Commission will be a partner in these efforts.

COPA welcomed the MoU and stressed the diversity of the spirit drinks sector which makes it necessary to allow for SMEs to have more time to follow suit when it comes to the provision of consumer information.

c. Implementing and Delegated Regulation on GI spirit drinks – update from COM

The Commission gave an update on the state of play on its ongoing work on the rules regulating GIs via an implementing and a delegated regulation as mandated by the Spirit Drinks Regulation (2019/787). The Commission discussed the draft twice with Member States' expert, in May and October and is committed to adopt both acts before summer 2020. The text is well developed and will be put for discussions with Member States next in February 2020.

The electronic database, e-Ambrosia, was completed with the technical files of the GIs for spirit drinks. Today, GI files are available in their original language in which the GI was submitted to the Commission. CDG participants are invited to check if indeed the latest versions of the GI files were uploaded.

Several elements of information (names, country, date of protection, legal instrument of protection, etc.) are included, but not legally binding until the Delegated Act is adopted (it is the Delegated Act that establishes the Register). Apart from its function as public Register, the e-Ambrosia database is the digital system which will be used by Member States to submit applications for registration and for amendment to the Commission. For objections or cancellations the models that are in the annexes, to be sent by email, are still to be used.

The Commission explained that the main issue in the delegated regulation is the setting of the information that must be contained in the register, whilst for the implementing regulation is the provision on controls. As regards controls, the purpose is to ensure the authenticity of a GI spirit drink in a quick and easy way. Controls are going to be done both by national inspectors and custom's officers. The aim is to have a rapid control system in place so operators can act quickly whenever there are doubts about the authenticity of a product.

CELCAA highlighted the long shelf-life of spirits drinks and asked if the period of a certificate's validity is linked to a products' shelf-life and asked whether the operator or the product will be checked. Further, the question of who can request a control was put forward. Commission replied that the validity of the control certification that is indicated in the draft Implementing Act is only provisional (may be changed) and in any event does not refer to the product but to the operator.

The Commission will still accept comments from the sector but would need those very quickly.

d. Impact of US import duties – *Presentation by the sector*

FDE presented the situation for European spirit drinks in relation to additional duties imposed on spirit drinks traded across the Atlantic. FDE recalled that since 1994 and 1997 the trade is fully liberalized for spirit drinks (except rum) between EU & US. That both partners represent each other's largest exports markets, with a balance in favor of Europe with 4,3€ billion in 2018. FDE also explained the significant cross-investment between the two.

Additional duties are impacting the sector since June 2018 with 25% imposed on US imports of spirit drinks to EU. Since 18 October 2019, the US imposes additional duties of 25% on a number of EU spirit drinks exported to the US. These two in relation to disputes that are unrelated to the sector. FDE recalled its strong message to EU and US decision makers to de-escalate and negotiate a solution. While it might be premature, the impact risks to be significant for consumers, business and the wider value chain of the spirit drinks sector.

The Commission is fully aware of the situation and requested the sector to share as much as possible detailed information on the impact of the measures (per country/per categories) to consider possible measures.

COPA-COGECA urged the Commission to consider support measures for EU operators should the duties continue to be imposed for a long period of time.

The Commission confirmed that it published recently its proposal for the wine promotion, which is part of the answer to help exporters to develop new markets.

e. Brexit – State of Play

The Commission explained the uncertainty the EU is facing as regards Brexit. The second withdrawal agreement has yet to be approved by the UK and the European Union. The Commission hopes for more clarity on Brexit and the next steps/timeline soon. It will then be able to further define the future relationship between the EU and the UK in the formal negotiations process. It will also include clarity in relation to trading partners.

The Commission reaffirmed that the UK and EU are essential partners one for each other, in the agriculture sector and in particular on spirit drinks.

On 12 December 2019, UK governmental elections will take place. The Commission expects the UK government to be collaborative and respectful of the withdrawal terms. In case of approval, the withdrawal agreement will assure a rational time-frame for the companies to adapt. From February 2020 formal negotiations should start on the basis of a negotiating mandate under preparation in the Commission. The schedule is ambitious.

The Commission is determined to negotiate an agreement that protects EU interests and to maintain legal certainty. It is at the core of a successful agreement that the Commission continues to keep the European Parliament and the Member States fully on board – up to now the EU 27 and European Parliament showed a very high degree of solidarity

FDE thanked the Commission for the comprehensive update and pointed out, that in case of a No-Deal Brexit, EU GIs need to see UK protection – to date the UK government has remained uncommitted on this point. Further, as FDE pointed out, excise duties are expected to be a source of complications in case of a No-Deal Brexit.

The Commission stressed that the UK protection of GIs will form an important component of the negotiations on the future relationship.

f. AOB

No points were raised.

4. Conclusions/recommendations/opinions

- FDE and CELCAA stressed their appreciation for the Commission's work on guidelines for the interpretation and application of the new Spirit Drinks Regulation and highlighted the need for the protection of spirit drinks GIs.

5. Next steps

- The Commission invited FDE and CELCAA to share examples of spirit drinks in which the application of the new Spirit Drinks Regulation in combination with QUID rules may be challenging.
- The Commission invited FDE and CELCAA to submit comments on the draft delegated and implementing regulation on GIs.

6. Next meeting

The next meetings will take place on 21 February 2020 and on 21 October 2020.

Disclaimer

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List of participants– Minutes

Civil Dialogue Group Horticulture, Olives and Spirits – Subgroup Spirits

29/11/2019

MEMBER ORGANISATION	NUMBER OF PERSONS
Bureau Européen des Unions des Consommateurs (BEUC)	0
European agri-cooperatives (COGECA)	0
European Coordination Via Campesina (ECVC)	0
European Council of Young Farmers (CEJA)	1
European farmers (COPA)	6
European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT)	0
European Forum on Nature Conservation and Pastoralism (EFNCP)	0
European Liaison Committee for Agriculture and agri-food trade (CELCAA)	4
European Public Health Alliance (EPHA)	1
FoodDrinkEurope	9
International Federation of Organic Agriculture Movements EU Regional Group (IFOAM EU Group)	0
Pesticide Action Network Europe (PAN Europe)	1
SACAR - Secrétariat des Associations du Commerce Agricole Réunion / Joint Secretariat of Agricultural Trade Associations (SACAR)	0
Stichting BirdLife Europe (BirdLife Europe)	0
TomatoEurope	0
Total: 22	