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**FINAL MINUTES**  
***Meeting of the Civil Dialogue Group Horticulture, Olives and Spirits – Sector Spirit Drinks***  
***Date: 15/11/2018***

Chair: Mr Nick SOPER

Organisations present: All Organisations were present, except EFFAT, PAN Europe, BEUC, BIRDLIFE, COGECA, ECVC, EFNCP, EPHA, IFOAM, TomatoEurope, SACAR

**1. Approval of the agenda (and of the minutes of previous meeting<sup>1</sup>)**

The agenda was approved.

**2. Nature of the meeting**

The meeting was non-public.

**3. List of points discussed** [Name of each point, one by one]

a. Presidency

DG Agri explained that with the imminent departure of the current chair but elections held only every September, there might be not be a chair for the next spirit sector meeting. Discussions within DG Agri continue; members asked to be kept abreast of developments, advising that they did not believe it would be appropriate for the next meeting to be chaired by someone from outside the spirits sector.

b. Spirit Drinks Regulation

FoodDrinkEurope expressed gratitude for the excellent dialogue with DG Agri and sought an update on where matters had reached on various outstanding areas of concern. In DG Agri's comprehensive response and the ensuing debate, the following emerged:

- Council had agreed to flexibility to allow changes to technical definitions and labelling provisions to be made (effectively for 5 years for labelling provisions) but continued to refuse to allow any category requirements to be updated other than by co-decision. FoodDrinkEurope reiterated its concerns that the lack of flexibility on category requirements was a backwards step which was likely to cause significant difficulties.
- The proposed derogation for solera-aged brandies had been withdrawn and instead a mechanism to allow a derogation at some future point will be re-introduced. However, Council wished to retain the current draft Annex IV, which would set the rules for any future derogation; the Commission does not believe that situation would be appropriate but will eventually accept it if it is the last, decisive point of the negotiation. Some members also indicated they would wish to see Annex IV removed.

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<sup>1</sup> If not adopted by written procedure (CIRCABC)

- A transition period of 2 years had been agreed insofar as production and labelling of spirits is concerned. New rules on geographical indications, however, would take effect immediately once the law was in force. These included in relation to article 14 (use of logo - voluntary), 18 (protection) and 33 (relationship with conflicting trademarks). It was not clear at this stage whether this might create difficulties for GI spirits - members undertook to alert the Commission quickly if they identified possible problems.
- On the new provision allowing many unsweetened spirits to be labelled as 'dry', the wording has been adjusted to ensure liqueurs which have long used terms such as 'sec' and 'triple sec' in their presentation do not face difficulties. DG Agri confirmed that unsweetened GI spirits could be labelled as dry. Similarly, although spirits can gain sweetness when matured in wooden casks, they too would be allowed to use the term. It was not immediately clear how such 'infused' sweetness might be differentiated from intentionally added sugars.
- While use of natural sweetening products such as stevia had been agreed in principle, the Commission will have the power to allow them for the production of spirit drinks. However, this presupposes prior assessment, doubtless with scientific input from EFSA and/or the JRC, among others to determine conversion factors to 'invert sugar'. A formal request from a Member State would be required to start the process.
- Rules regarding the labelling of spirits bearing allusions and compound terms, as well as for mixtures, were the result of a compromise between the institutions. Some members indicated their concerns that spirits on sale as 'GI/category liqueur' are currently required to use 100% of the GI/category whereas the new provisions on allusions seem to allow 'liqueur with GI/category' in which only a tiny fraction of the alcohol could come from the named GI/category.

The Commission is ready to discuss practical difficulties. The new law should provide powers to amend the rules in this area for a limited time period, while discussions in the spirit drinks committee would also allow guidelines (Q & A) to be prepared. The Commission asked for examples of difficulties the new rules created for producers.

- It had not yet been agreed whether implementing or delegated acts should be used for some of the GI issues, notably as regards registration, cancellation and changes to the technical file. It was confirmed that the current Annex III would remain in force until the new register is established.
- Following the European Court (ECJ) ruling on egg liqueur, the Council will seek changes to categories 41 and 42 so as to permit the use of milk products. (DG Agri clarified that the rules in 110/2008 had been interpreted differently by different Länder in Germany, and this gave rise to the legal dispute.) The ECJ ruling would cause difficulties for many producers so adjustments to the definition so as to better reflect production traditions would be made. DG Agri agreed it was a perfect example of why flexibility to adjust category requirements should be maintained in the new regulation.
- The next (probably final) trilogue is on 27 November. The Commission's negotiating mandate will shortly be finalised so any comments from the sector would be needed in the coming days. It was thought the new law could be published in March/April 2019.

c. GI Technical Files

DG Agri explained that only 5 files from established GIs remained to be validated within DG Agri. It was hoped these would conclude in November and that the letter explaining DG Agri had 'no further questions' (in essence approved the file) could then be sent.

Legal Service guidance and an inter-service consultation would be required for the subsequent communication from the Commissioner to the College; it was hoped this procedure could start before year end. While DG Agri could not be precise about the communication's date of issue (1<sup>st</sup> half of 2019?) members explained why it was important that the formal approval is published at the earliest opportunity. It was confirmed that, once concluded, the technical files would be used in future free trade agreement negotiations. Meantime, DG Agri would work on the 31 new GI applications, of which 5 are amendments to 5 established GIs.

d. Labelling - nutrition and ingredients

FoodDrinkEurope registered concerns that DG Santé was again not able to attend the CDG meeting, despite the importance of the issue. The sector set out its proposals to substantially improve the information currently received by consumers, notably through a dynamic roll-out of energy on label by major producers and many others. As a consequence of the more complicated position on ingredients, in particular that the raw materials are no longer present in the spirit, putting details on-line would provide more meaningful and comprehensive information for consumers than could be conveyed through a label.

FoodDrinkEurope explained that it would be immensely helpful if the Commission was able to acknowledge the initiative is a positive move by the sector. Small and large producers alike would welcome such recognition as it would serve as an incentive for broader implementation.

DG Agri indicated that officials recognise the sector's proposals are constructive, represent movement in the right direction and are an improvement compared to the March self-regulatory commitment. They advised that the proposals are being analysed by the Commission. Officials would welcome early sight of the information on ingredients, raw materials, production and nutrition which the sector is preparing on each category.

e. Labelling of origin - Regulation 775/2018

FoodDrinkEurope registered concerns that the new law contained provisions for further measures regarding the labelling of GI foodstuffs, with the potential to create new labelling requirements for spirits even though they were already subject to provisions through the vertical legislation and their technical files. DG Agri explained that in the discussions with Legal Service when regulation 775/2018 was drafted, it had been agreed that only GI and TM foodstuffs would be outside of the scope of the new rules and that further exemptions could be provided in sector-specific legislation. The Commission had therefore included a derogation (article 12.2) in the proposed new regulation so that both generic and GI spirits would not be required to declare the origin of their primary ingredient. Spirits producers were very grateful for this clarification.

f. Labelling - Codex

An update on alcohol labelling in Codex was sought and DG Agri explained that the EU and US did not feel it was appropriate to start discussions. A working group (Russia, Ghana, Senegal, India, EU) had been created and a questionnaire sent to all Codex countries seeking views on current national labelling policy and its perceived effectiveness. DG Agri thought

the results from the questionnaire would be useful in identifying possible next steps. On a related aspect, the spirits sector registered concerns that an anti-alcohol NGO was coordinating representational activities directly with WHO Europe.

g. Taxation - review of Directive 92/83

FoodDrinkEurope sought views on where matters had reached, stressing that the current absence of any reduced rates for commercial (craft) distillers looked increasingly unfair in the light of the existing help for (much larger) brewers and proposed help for commercial cider-makers. DG Taxud indicated that the Austrian Presidency is aiming to conclude talks by year end, with working group meetings in each of the next 2 weeks. While there is considerable convergence among Member States on many issues, none had requested a facility to help craft distillers.

Member States were also considering whether the current facility for home-made beer and wine should be extended to spirits. DG Taxud agreed with the spirits sector that such a provision would give rise to serious concerns regarding health, controls and fraud. Separately, it had been agreed, as requested by the Economic and Social Committee, that a review clause should be included in the compromise text.

On the review of directive 2008/118, DG Taxud made a short presentation on the forthcoming consultations on distance selling and 'indicative' levels (personal cross border shopping allowances), and said the consultants had been asked to seek input from stakeholders in the spirits sector.

h. Taxation - Slovakia

Spirits producers were greatly concerned at proposals in Slovakia to formalise home-distillation and make it subject to a reduced rate of excise tax. They thought it inappropriate, potentially damaging for health, unsanctioned by EU legislation and would not be properly controlled. The sector had sought views from DG Taxud earlier in the year and officials undertook to see where matters had reached.

i. Taxation - Austria and Croatia

The sector sought news regarding the 2 infringements cases, in particular because it was not clear what had prompted the actions. DG Taxud undertook to discuss with the infringements unit, while the sector would also write with questions.

j. Taxation - Hungary and Greece

The sector sought views on Hungary and whether the proposed new legislation was thought to be EU-compatible. Separately it sought news regarding the timing of the ECJ judgement on Greece, noting that it had been more than 7 years since concerns regarding the unsanctioned tax breaks had been raised. DG Taxud undertook to discuss with the infringements unit, while the sector would also write with questions.

k. Ireland - public health bill

FoodDrinkEurope presented its concerns regarding many elements of the bill, notably the: absence of a national impact assessment on, as well as the misleading nature of, the proposed warning label; failure to take into account the benefits of moderate consumption; creation of intra-EU trade barriers; and the availability of other, less trade restrictive,

measures. Separately, the proposed advertising restrictions were draconian, and would effectively ban external advertising in urban areas and require advertisements in imported media also to comply.

The Commission advised it was concerned that aspects of the bill, notably regarding energy and alcohol weight labelling, did not comply with EU law and that the cancer warnings could impact negatively, including on the internal market. It confirmed that the forthcoming secondary legislation would be analysed closely. At the same time, the Commission welcomed some of the improvements to the bill, as regards the treatment of trade publications and on labelling. Ireland has dropped the requirement that a third of the labelling be taken over by warnings on the link between cancers and alcohol consumption in the light, inter alia, of the Commission's comments. It is also clarified that the warnings no longer have to appear on the labelling at the time of importation but only when sold and that they can be affixed by stickers.

DG Agri confirmed that Ireland had responded to the Detailed Opinions submitted by other Member States on the TRIS-notified text; in addition, in a change to normal protocol, Ireland had also replied directly to USA, Mexico and others who submitted comments following the WTO TBT notification.

Insofar as the next stages were concerned, it seemed that the labelling provisions should be notified via regulation 1169 while those on advertising would be through TRIS. To conclude, FoodDrinkEurope reiterated that the Irish bill remained an issue of serious concern with multiple elements capable of misleading consumers and causing internal market barriers.

#### I. AOB

Copa asked for the Commission's views on the regulatory framework for low- or no-alcohol "spirits". The Commission advised that regulation 110/2008 was clear that category names could not be used on non-complying drinks; in addition, even the name 'spirit' suggested a drink with a minimum of 15% vol. However, it is a relatively new issue - the same debate is happening in the wine sector - and there is pressure for legal clarity because of the presence in the market of low- or zero-alcohol products. FoodDrinkEurope indicated that any consideration of the issue needed to factor in the innovative nature of these drinks, while at the same time protecting tradition. DG Agri indicated that as there is official support for moving drinks to lower strengths, it is possible a study will be commissioned on the issue.

FoodDrinkEurope advised that it appears Lithuania is to introduce a new requirement for packaging to label its raw materials. The measure, which has not been notified, would appear to breach EU law, as was the case when a similar measure in Croatia was withdrawn in 2016 / 2017. The sector will write shortly to the Commission with details.

#### **4. Conclusions and Next steps**

- The Commission to advise of outcome of internal discussions and to liaise with the sector regarding chairing arrangements for the next meeting.
- Spirit GI representatives to alert DG Agri if they identify potential difficulties with the (lack of a) transition period for the new spirit drinks regulation.

- DG Agri and the spirits sector to liaise closely to try to resolve difficulties arising from the new rules on allusions and mixtures. Spirits producers to provide concrete examples of problems.
- DG Agri to keep sector abreast of developments relating to, and the timing of, the Commissioner's letter of approval for all the established GI technical files.
- Commission and sector to work together on improving consumer information on ingredients and nutrition. Spirits sector to provide the Commission with examples of the comprehensive on-line category information currently being prepared.
- DG Taxud to forward to the infringements unit the spirits sector's concerns in relation to possible new legislation on home distillation in Slovakia and the questions regarding Austria, Croatia, Hungary and Greece. Sector also to write to infringements unit with questions and concerns regarding the same markets.
- spiritsEUROPE and the Commission to liaise closely to try to ensure the Irish bill does not mislead consumers and create internal market trade barriers.
- spiritsEUROPE to write with details of the packaging raw material identification provisions in Lithuania.

## **5. Next meeting**

The date has not been fixed but it could be in March 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 Horticulture, Olives and Spirits – Sector Spirit Drinks**  
**Date: 15/11/2018**

MEMBER ORGANISATION	NAME	FIRST NAME
European Council of Young Farmers (CEJA)	Di Mattia	Antonio
European Council of Young Farmers (CEJA)	Calentini	Enrico
European Liaison Committee for Agriculture and agri-food trade (CELCAA)	Marchand	Camille
European Liaison Committee for Agriculture and agri-food trade (CELCAA)	Lalagüe	Lionel
European Liaison Committee for Agriculture and agri-food trade (CELCAA)	Francois	Elvire
European Liaison Committee for Agriculture and agri-food trade (CELCAA)	Cagiano de Azevedo	Ottavio
European farmers (COPA)	Imbert	Alexandre
European farmers (COPA)	Lukas	Wolfgang
European farmers (COPA)	Erdrich	Gerald
European farmers (COPA)	Petó	Krisztina
European farmers (COPA)	Cacic	Jasna
European farmers (COPA)	Mirizzi	Francesco
FoodDrinkEurope (FoodDrinkEurope)	Soper	Nick
FoodDrinkEurope (FoodDrinkEurope)	Naudin ten Cate	Denis
FoodDrinkEurope (FoodDrinkEurope)	Hall	Lorraine
FoodDrinkEurope (FoodDrinkEurope)	Rose	Lisa
FoodDrinkEurope (FoodDrinkEurope)	Breuer	Bettina
FoodDrinkEurope (FoodDrinkEurope)	Labarchede	Hugo
FoodDrinkEurope (FoodDrinkEurope)	Thepkanjana	Yapa
FoodDrinkEurope (FoodDrinkEurope)	Sallis	Thomas
<b>Total:</b>		<b>20</b>