

Brussels,

FINAL MINUTES
Meeting of the Civil Dialogue Groups Horticulture, Olives and Spirits – sub group
Spirits
Date: 13 April 2018

Chair: Mr Nick Soper (FoodDrinkEurope)

Organisations present: All organisations were present except EPHA, BEUC, ECVC, EFFAT, EFNCP, OEIT, IFOAM, SACAR, BirdLife

1. Approval of the agenda

The agenda was approved

2. Nature of the meeting

The meeting was not-public.

3. List of points discussed

a. Introduction to AGM

DG AGRI provided a detailed overview of its new 'Advanced Gateway to EU Meetings' (AGM) system, highlighting the improved speed and efficiency of administration for the CDG meetings. The presentation is available through Dropbox.

b. New Spirit Drinks Regulation

DG AGRI gave a detailed presentation on the proposed new regulation which, it was hoped, might be agreed by the end of 2018 or early 2019. While the adoption process is ongoing, some of the key changes that were highlighted related to: the loss of flexibility to amend technical definitions; the proposed new derogation for solera-aged spirits; rounding limits; rules on compound terms, allusions and mixtures; the re-introduction of provisions so as to maintain the integrity of category definitions; differences between the Parliament and the Council's positions on GI rules; and new provisions on amending product specifications.

FoodDrinkEurope expressed its considerable and ongoing appreciation for the dialogue with officials and the numerous improvements to the proposed draft. In the subsequent debate a number of points emerged:

- it was critical that rules on compound terms, allusions and mixtures continued to protect both consumers and producers - the spirits sector did not want new rules to allow previous trade problems to re-emerge. DG AGRI felt that the new Council's draft resolved a lot of the sector's concerns.
- some members registered concerns regarding the proposed derogation for solera-aged spirits and asked for assurances regarding its scope, labelling rules, method of calculation and possible impact in international markets. DG AGRI advised that the politics were delicate but broad agreement between Member States did seem to have been reached.

- Members registered strong concerns at the loss of acquired rights if proposed changes in dates of GI protection are adopted. While DG AGRI hoped that the issue could be clarified through a new recital, members remained concerned because that would not have much legal value if the law itself set down specific dates of protection.
- DG AGRI confirmed that, in a move warmly received by the sector, the proposed provisions on beer alcohol had been withdrawn and the issue was no longer being considered by Member States. Separately, it advised that the EP amendment aimed at require the statement of raw materials in the electronic accompanying document had little chances to be retained, while the amendments proposed by the Council to mandatorily indicate the sales denomination which would require compliance with the category definition and, where indicated on the label, the age was more in line with current provisions on the electronic accompanying documents.

c. GI Technical Files

DG AGRI advised that 183 of the 243 TF received before February 2015 had been assessed and “approved”, validated at DG AGRI level 22 were in the hands of the Member States and for 38 DG AGRI was assessing the replies from Member States. While it was difficult to predict timeframes, COM hoped all dossiers would be completed by year-end. A Commission Communication would be required to formalise approval of the existing GIs whereas a formal legal Act would be needed if any GIs had to be withdrawn.

In the proposed new provisions in the draft spirits regulation approval of TF (or product specifications) would mainly fall on Member States, with the Commission’s role limited to ensuring there are no ‘manifest errors’ in the application.

d. Ingredient and Nutrition Labelling

FoodDrinkEurope provided an overview of the spirit sector’s proposal, highlighting that the sector is committed to providing consumers with the information they need to make informed purchasing decisions:

- declarations per 100ml only would mislead consumers. While our sector will comply with this requirement of Reg 1169, spirits producers will emphasise serving sizes and believe these should be mentioned by all alcohol beverages producers. Such an approach would be consistent with longstanding responsible drinking guidelines in many EU Member States. We hoped the Commission would look favourably on this position and that other sectors would be prepared to follow our lead.
- we will report periodically on progress in implementing the collective and spirits sector commitments. We enquired with the Commission on how the sector’s proposal would be assessed. In addition, and most importantly, we hoped the Commission would oppose national proposal for labelling in this area in the meantime.

DG AGRI apologised that the absence of DG SANTE made it difficult to engage in detailed discussions. However, the Commission was grateful that all the alcoholic beverages sectors had coalesced around a collective position. The Commission would take a few months to review the self-regulatory proposal, along the lines broadly set out in its 2017 report.

e. Origin Labelling and National labelling

FoodDrinkEurope registered concerns at the tight timelines for the preparation of guidance for the new implementing regulation on article 26.3 of R 1169/2011. In addition, there were concerns that, despite the wording of the latter regulation and the assurances at the time that it was not intended to target GI foodstuffs, we now found ourselves in a situation where GIs are included, albeit their rules will be set down at a later stage. DG AGRI indicated that the Commission's proposal was the result of lengthy internal discussions and hoped that proposed provisions, strongly supported by the sector, in the new spirit drinks regulation would help.

f. Review of Excise Tax Directive 92/83

DG TAXUD gave a presentation on its forthcoming legislative proposal in which, among other things, a new sub-category would be created under 'other fermented beverages' and would include traditional fermented beverages such as cider and perry. Separately, the draft would propose to allow Member States to apply lower rates on beer below 3.5% vol, an increase from the current 2.8% threshold. Spirits producers indicated that the proposal provided no help whatsoever for their sector, despite it currently facing substantial excise discrimination. The sector continued strongly to oppose the idea that tax advantages should be given to beer, by far the largest alcoholic beverage sector and which already enjoyed huge tax preferences in comparison to spirits.

DG TAXUD advised that the minimum strength provisions meant spirits could never benefit from the reduced rates that the beer sector was being offered, and that competition between the sectors was not certain. This was strongly disputed by spirits producers, arguing that there are numerous factors that showed competition and similarity, not least that the EU's excise laws related to all alcoholic beverages. Furthermore, as beers at 3.4% could contain more alcohol and more calories than most comparable spirits the reported 'health' justification of the measure was also questionable.

It is likely that the legislative proposal will be adopted in May.

g. Illicit Alcohol, Food Integrity Project and Tax Structures

The Chair provided a short overview of the problems that the current excise structures provided, including that the excessive rates in some markets provided an incentive for smuggling and tax evasion as well as, notably in Central European markets, illicit alcohol which killed consumers. While the spirits sector is involved in initiatives, such as the EU-funded Food Integrity Project, that sought to tackle the illicit trade it needed help from the Commission to quantify the scale of the problem and, thereafter, devise policy options to address it. DG TAXUD noted the concerns and that the high excise rates, set by Member States, contributed to the problem of illicit alcohol.

h. Infringements

While the Commission indicated that it does not normally discuss cases that are the subject of legal proceedings, FoodDrinkEurope took the opportunity to reiterate the serious ongoing problems facing legitimate traders in Greece and Hungary as a consequence of the national legislation the Commission is challenging. In addition, it registered concerns that there had been substantial delays in the progress of each complaint the spirit sector had brought.

i. Ireland: Public Health Bill

FoodDrinkEurope set down its concerns that Ireland had ignored the Detailed Opinions issued by certain Member States when its legislation was first notified and had made matters worse by including further disproportionate provisions in its more recent notification (requiring, among other things, cancer warnings on all alcohol advertising and labels of bottle sold in Ireland). The Commission indicated there had been discussions at Cabinet level, whereas the section of the notification concerning health warnings and other labelling provisions was carved out to be subject to a notification procedure under Regulation (EU) No 1169/2011 (the FIC Regulation).

j. International Trade Issues

FoodDrinkEurope set out its concerns regarding Canada, with regard to the different cost structures applied in different distribution channels and the new duty escalator. It was noted that, perversely, CETA had made market access harder for EU spirits. The Commission indicated that the concerns had been registered, not least in Commissioners' letter to the Canadian authorities and that they would feature in the inaugural meeting of the EU-Canada wine and spirits committee. The Canadians have asked some questions about the functioning of the EU's (national) monopolies.

As regards AQSIIQ in China, the Commission indicated that it understood the body was to be dismantled and that the forthcoming visit by Commissioner Hogan was a good opportunity to try to understand how the new structures would work. The spirits sector stressed the importance of finding a mechanism to ensure there would be no barriers to market entry and, in particular, to consider as a matter of priority the Chinese proposal to introduce a new import certificate for low-risk food products, including wines and spirits, by October 2019.

k. Re-organisation of the CDGs

DG AGRI gave a presentation on the proposed changes to the CDGs necessitated by staff cuts, increased responsibilities in DG AGRI observatories and the need to find savings. The upshot was that, with a number of current overlaps, wines and spirits would be merged for most issues and a new wine working group created on technical aspects. Joint meetings would be organised, and agenda could be organised to fit the interests of both sides. Total membership of the group would remain at 53 but there would be minor changes made in seat allocations. The changes were planned to take effect in the second half of 2018.

While spirits producers are not opposed to the merger they indicated that the 2 sectors do not always share the same perspectives. The new group therefore needed to ensure that spirits interests were adequately reflected and that the number of seats for the spirits sector should remain broadly constant. The sector undertook to send further comments.

4. Conclusions/recommendations/opinions

The spirits sector continued to be extremely grateful for the dialogue with the Commission on the new spirit drinks regulation and looks forward to this continuing as the dossier is in its final stages.

The sector would welcome the Commission's views on the recent self-regulatory labelling proposal, in particular regarding the spirits sector's concerns regarding the misleading nature of energy declarations per 100ml.

On taxation, spirits producers, who face discrimination compared to every other sector, remain hugely concerned at the formal proposal which will provide low tax sectors even more advantages and thus disadvantage spirits further. That is manifestly unfair.

5. Next steps

Discussions on all the key policy areas will continue.

6. Next meeting

The date for the first meeting of the wine and spirits group is, provisionally, 20 November 2018.

7. 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 Groups Horticulture, Olives and Spirits – sub group Spirits
Date: 13 April 2018

Last name	First Name	Delegation
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Jasińska	Justyna	European agri-cooperatives (COGECA)
Ligero Jimenez	Francisco	European agri-cooperatives (COGECA)
Rei	Pedro	European Council of Young Farmers (CEJA)
GONZALEZ PINTO	Buenaventura	European Council of Young Farmers (CEJA)
IMBERT	Alexandre	European farmers (COPA)
Lukas	Wolfgang	European farmers (COPA)
MIRIZZI	Francesco	European farmers (COPA)
Erlandsson	Per	European farmers (COPA)
Cagiano de azevedo	Ottavio	European Liaison Committee for Agriculture and agri-food trade (CELCAA)
GENEVEY	Noélie	European Liaison Committee for Agriculture and agri-food trade (CELCAA)
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