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FINAL MINUTES
Meeting of the Civil Dialogue Groups- Horticulture, olives and spirits - Spirits sector
Date: 13 October 2017

Chair: Nick Soper

Organisations present: All Organisations were present, except BEUC, Birdlife, ECVC, EFFAT, EFNCP, EPHA, IFOAM, OEIT, PAN Europe, SACAR

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

Minutes from the 17 March 2017 meeting were approved.

2. Nature of the meeting

The meeting was non-public.

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

a. Election of Chair

Members elected M Sanchez de Puerta Diaz as the chair and Messrs Garcia Fernandez and Soper as vice chairs.

b. Alignment of spirit drinks legislation

In thanking DG AGRI for the longstanding constructive dialogue on the legislative proposal, FoodDrinkEurope made a presentation setting out a number of areas where the industry had concerns. This included in relation to: the definitions being spread between different provisions in the new law; changes to category definitions, which had not been discussed with producers, yet seemed capable of requiring some substantial adjustments in production practice; the apparent broadening of the raw materials for spirits, despite the law's re-introduction of an agriculture legal base; proposed new rules for age declarations; new rules on caramel which seem to contradict other EU laws or would deny producers their longstanding rights; difficulties with provisions for translating GI names; and the new facility for spirit names to describe flavours even though the spirit had never been used.

DG AGRI provided an update on recent developments and, in the discussions, the following emerged regarding the industry's specific concerns:

- As regards definitions, the Legal Service of the Council thought current rules were partly repetitive and so proposed adjustments in line with their legal drafting guidelines. Industry, however, explained its concerns that the proposed changes made definitions harder to understand and that they could bring substantial change without any

¹ If not adopted by written procedure (CIRCABC)

consultation with producers. Furthermore, splitting rules between an annex and the main law would make definitions more difficult to amend in future. It was agreed industry would need to continue to make representations against the proposed changes.

- On the proposed widening of the raw material base for spirits, so as to include ethyl alcohol from beer and, possibly, bread, DG AGRI explained that, in spite of the request of some MS, a compromise has been proposed within the Council to allow the use of beer alcohol only for the production of alcoholic beverages other than spirit drinks; no decision had yet been taken as regards bread. Members continued to register serious concerns, even at the prospect for the new raw materials to be used only for products below 15% vol. as that would set an unfortunate precedent and introduce complexities, not least because there are no definitions for such beverages. Some members have already raised concerns at senior level within DG AGRI because any change would undermine the spirits sector and the traditional producers of ethyl alcohol. Again it was agreed industry would need to press the institutions to maintain the obligation for spirits only to use agricultural raw materials.
- With regard to age statements, 2 MS were seeking a derogation from the general rule only for brandy matured with the "criaderas y solera" system. There appeared to be support within the Council on condition that this derogation only applies to GIs of those 2 MS and that age declarations would need to state that the number referred to an average maturation period and that the spirit was matured using the "criaderas y solera" system. However, members felt further work on the issue was required because there seemed to be scope for consumers to be confused.
- DG AGRI indicated that the proposed restriction to allow only E150a caramel for spirit drinks of categories 1-14 had been an error and would be removed. However, MS still wanted the use of caramel to be limited only to aged spirits of those categories. Industry advised this would damage longstanding practice in many sectors; it was agreed industry should continue to press to be allowed to maintain current freedoms.
- The revised working document of the Council allows the spirit drink producers to be able to add translations of GI names for export markets. However, MS were reluctant to accept that it should only be when there was a legal requirement in the third country, because that would mean the Member State of export would have to verify label accuracy. Industry registered concerns that such translations could become more widespread.
- Regarding the chapter on Geographical Indications, the Council text sought to remove several Commission's powers to legislate, as for example demarcation of the geographical area, on labelling and packaging of GIs; instead any such rules would be subject to co-decision.
- The same proposal indicates that the new GI Register would contain a link to the main specifications of the technical file. While for established GIs the file would be available in the original languages plus French or English, for new GIs translation of the single document in all languages would be available as it would be published in the Official Journal for oppositions. Finally, rules to allow the seizure of fake GIs in transit had been added in the Council text.
- For spirit drinks names as flavours, DG AGRI thought that it reflected current practice and said that some MS wanted to go further and allow even GI names to describe imitation

flavours. Members, however, continue to be greatly concerned that the proposed new provision would mean consumers were misled.

- Both Council and the Parliament were ready to maintain 'place of manufacture', although the Commission continued to have reservations. Members were very grateful; its retention would avoid the potential for consumers being misled and GIs to be undermined. DG AGRI indicated the issue would probably feature in the dialogues.
- The Commission hopes to clarify the rules on mixtures, compound terms and allusions, because MS are reported to be interpreting current provisions differently. According to a proposal of Commission services, compound terms would be allowed when there was one spirit and one foodstuff; allusions would be permitted only for foodstuffs other than beverages. For mixtures a 3-tier system seems to be envisaged: spirit mixed with other alcoholic components not meeting the requirements of any specific categories; mixtures which met a category definition (normally liqueurs); and mixtures of 2 or more spirits of different categories. Different rules would apply in each case. Input from the sector was requested.

Members indicated serious reservations at one particular aspect of the proposal, namely the removal of the requirement for the different alcohol components of a mixture to indicate their contribution to the total alcohol content of the product. Industry explained the replacement of the current system with QUID rules was both inappropriate and would lead to consumers being misled and producers having either to reformulate or re-label. DG AGRI was reminded that the current rules had been introduced through Regulation 2675/94 to address a serious market disturbance, and they had worked well.

- On a related issue, DG AGRI advised that the Commission was consulted about clarifying rules so as to allow products such as 'beer with Tequila' because they were now established in the market. Members expressed serious reservations that such misuse of a GI would go unchallenged, let alone that rules would be adjusted to accommodate it.

b. Technical Files for existing GIs

DG AGRI informed that around half of the technical files for established GIs had been 'validated at DG AGRI level'. Of the remaining 50%, half were already the subject of Commission re-examination while, on the others, the Commission was waiting for MS to respond to its initial views and questions. The Commission hopes most of them will be concluded by mid-2018.

c. Labelling - proposed implementing regulation on article 26.3 of 1169/2011

DG AGRI advised that the process is ongoing and is being handled at Cabinet level. While DG AGRI hoped all GIs could be exempted, the Legal Service thought there were no grounds for doing so. If, however, there were specific legal provisions in individual sectors, that would provide a route for an exemption. The proposed provision in art. 12.2 of the new spirit drinks legislation was designed with that in mind, but some MS and MEPs had sought its deletion. DG AGRI agreed that, in any case, the transformation of raw materials for spirit drinks made origin labelling unnecessary and, in the eventual ingredient listing debate, it would be important to try to clarify the distinction between raw materials and ingredients.

d. Excise Taxation: review of Directive 92/83

DG TAXUD made a presentation on the latest developments with the review. It was thought likely that the impact assessment and a proposal would be published in the 1st quarter of 2018. There is no certainty as to what it might include. While there are questions regarding classification, the scale of the difficulties was hard to gauge; it was a very small part of overall consumption but was more important in particular sub-sectors. However, it appeared that each of the proposed solutions might give rise to new problems; some seemed likely also to reduce revenues. Rulings from some ECJ cases might help to clarify where things stand. We agreed to consider separately the questions surrounding ethyl alcohol used as a carrier for flavours and colours.

Members continued to register concerns that the review was not addressing the source of the difficulties, namely the minimum rates in Directive 92/84. In addition that the spirit sector did not want to see any changes that might improve the already advantageous fiscal conditions our competitors enjoyed.

e. Croatia - labelling and certification

A presentation from the sector set out the background to the concerns and appreciation for the Commission's work thus far. DG GROW advised that, following the recent TRIS notification, the dialogue with Croatia is ongoing and that the latter was required to take the Commission's comments into account as far as possible in the subsequent preparation of the technical regulation (our sector could make a formal request if it wished to see the comments.)

Officials stressed, however, that they could only react to the changes in the law that Croatia had notified. Older provisions, including those in force before accession, would, if problematic, have to be resolved using different legal instruments: a formal CHAP complaint might therefore be worth considering, depending on the outcome of the current discussions.

f. Italy - place of production labelling

The sector explained that the new law had been published and, unless changed, would take effect in 6 months. DG SANTE explained the various stages thus far. Italy had first notified the draft via TRIS but withdrew it following the Commission's Detailed Opinion (through DG GROW), which set out that it was not compatible with EU labelling law. Italy then notified the draft via article 45 of Regulation 1169/2011 (which is the responsibility of DG SANTE) but that too was subsequently withdrawn.

Most recently, Italy had notified the law under the Article 114 of the Treaty, setting out conditions under which MS may have national laws in areas covered by EU harmonised legislation. The procedures for reacting can be elaborate and are under the control of the Secretary General; the Commission has 6 months to respond. While it was too early to say precisely what the Commission would do, members hoped it would draw the same conclusions that had led to the Detailed Opinion, not least because producers would shortly be forced to comply with the new law.

4. Conclusions/recommendations/opinions

The spirits sector agreed that it needed to continue to liaise with all the institutions to try to ensure that the new spirit drinks regulation did not introduce unwelcome restrictions or provisions for the sector.

On the review of the tax directive, industry will continue to make representations nationally and at EU level to try to preserve current fiscal arrangements.

On the labelling legislation: article 26.3 and Italy, the sector looks forward to hearing more from the Commission as the dossiers evolve. The same applies in the case of Croatia and the Commission's dialogue regarding certification and labelling rules.

5. Next steps

On the first 2 points above, industry representations are already happening and will continue. Similarly on tax, representations will be prepared in the coming week(s).

6. Next meeting

No date has yet been fixed but it is likely to be around the same date as this year's spring meeting, i.e. possibly Friday 16 March 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 Group on Horticulture, olives and spirits – Spirits Sector

Date: 13/10/2017

	MEMBER ORGANISATION	NAME OF REPRESENTATIVES
1	CELCAA	OTTAVIO CAGIANO DE AZEVEDO
2	CELCAA	NOELIE GENEVEY
3	CELCAA	CAMILLE MARCHAND
4	CELCAA	YAPA THEPKANJANA
5	CEJA	PEDRO MIGUEL ROSEIRA REI
6	CEJA	BOHDANA SLEGROVA
7	COPA	GERALD ERDRICH
8	COPA	INES KUSTIC
9	COPA	WOLFGANG LUKAS
10	COPA	FRANCESCO MIRIZZI
11	COPA	TIBOR VERTES
12	FoodDrinkEurope	BETTINA BREUER
13	FoodDrinkEurope	ROLF CASSERGREN
14	FoodDrinkEurope	ARTURS EVARTS
15	FoodDrinkEurope	INTARS GEIDANS
16	FoodDrinkEurope	LIONEL LALAGUE
17	FoodDrinkEurope	ALICE POIDEVIN
18	FoodDrinkEurope	TOM SALLIS
19	FoodDrinkEurope	NICK SOPER
	<i>TOTAL</i>	19