



CP.MI-044-2017  
23 MAR 2017

## DRAFT MINUTES

Civil Dialogue Group “Horticulture, Olives and Spirits”  
Friday 17 Mar 2017, 09.30 – 13.00  
Brussels

### LIST OF PARTICIPANTS

#### Stakeholders:

FoodDrinkEurope: Laure Alexandre, Heloise Barillau (note taker), Bettina Breuer, Camille Marchand, Denis Naudin ten Cate, Tom Sallis, Nick Soper (Chair), Yapa Thepkanjana, Leszek Wiwala

COPA: Mr. Erdrich, Mr. Imbert, Ms Predic

COGEGA: Mr. Endrodi, Mr. Giamalidis, Mrs. Panagiotou, Mr Simic

CEJA: M Castilla Baro, M Roseira Rei.

CELCAA: Lionel Lalague,

PAN Europe: Ms Slabe

EFFAT: Estelle Brentnall, M Treiber

#### Commission:

Chiara Imperio and Raimondo Serra (AGRI G2), Maria Iusco and Luca Cianfoni (AGRI B3), Roberta Buttini (AGRI R4) Alessandro Politi (GROW B2).

### 1. APPROVAL OF THE AGENDA AND REPORT OF THE LAST MEETING (14/10/2016)

The agenda was adopted. The minutes of the last meeting were adopted.

### 2. ALIGNMENT OF REGULATION 110/2008

Following DG AGRI’s presentation setting out the main elements of the proposal with respect to general provisions and with specific emphasis on geographical indications, spiritsEUROPE mentioned a number of areas where the draft alignment text was causing concern. In the subsequent discussion, COM indicated that it understood the industry’s difficulties with: the proposal to limit the sales denominations that could be used for spirit drinks meeting the requirements of more than one category

(art. 8.3); the facility for other foodstuff flavourings to use spirit names even though none of the spirit was present (art 8.5); and the new restriction on translations (art 13). With Member States having expressed some similar reservations, COM was ready to be flexible on each area.

With regard to the proposed new register of geographical indications, it remained unsure if it would (a) contain the technical files for EU spirits (as requested by producers), and (b) ever be expanded to contain 3<sup>rd</sup> country GIs (an issue on which spiritsEUROPE has considerable reservations). On a related issue, the sector asked for a provision enabling Customs authorities to halt fake GIs in transit through the EU; the Commission noted that some MS were also looking for more stringent controls on spirits entering the EU.

A broader concern was that, following earlier changes to EU legislation on rules of origin, the alignment text could open up potential for misuse of EU GI spirit names through its art 12.1, which moves away from the current definition of 'place of manufacture'. While it was unclear how this issue should best be addressed, it was agreed that further discussions are required. Separately it was noted that Member States shared the industry's concerns in relation to the provisions on delegated and implementing acts, and that the implementing acts of R 110/2008 would be repealed by a delegated act.

### 3. TECHNICAL FILES FOR SPIRITS WITH GEOGRAPHICAL INDICATIONS

In response to FoodDrinkEurope's concerns regarding the lengthy timeframes and the detailed scrutiny of technical files for spirits that had been on the market for decades, the Commission explained that a close reading of each was required because the EU would have to promote / defend them in third country negotiations.

Only 10 or so files remained unopened, while a further 20 had been reviewed and were now subject to internal DG AGRI scrutiny. All the other files were either (a) at various stages in the discussion between member states and the Commission, or (b) effectively finalised in that the Commission had no further questions. For the files that were still being discussed, the Commission now routinely gives member states 4 months to reply to questions. It was difficult to be precise but the Commission hoped that most files would be finalised before the end of the year.

One of the issues under discussion is the occasional technical file requirement for the GI spirit to be bottled in the region of production. The Commission confirmed it had asked for justification for such requests systematically because bottling at source (BAS) is seen as a restraint on trade. That did not mean that it was viewed as illegal; rather it needed to be seen as an exception to the norm and therefore had to be justified.

Once all the files have been agreed, the College of Commissioners will be alerted. While the precise mechanism thereafter has not been decided, if all the GIs in regulation 1067/2016 have been approved, the Commission could simply re-confirm the list. If any changes in the list were required, however, it would need to be re-published. Either way, guidance from Legal Service seems necessary.

### 4. EXCISE TAX - REVIEW OF STRUCTURES DIRECTIVE, 92/83

With DG TAXUD officials unable to attend, spiritsEUROPE gave a presentation which set out its reservations regarding the latest phase of the review of the excise structures directive (92/83). The key aspect is that the review is seeking to address problems that have been caused largely by the provisions of the minimum rates directive (92/84) and that the latter is deemed too sensitive to amend. Trying to address some of its consequences, however, could cause even more difficulties for spirits producers.

One element of particular concern is the proposal to allow reduced tax rates for lower strength products. Spirits could never take advantage as their minimum strengths are fixed. Moreover, the advantages of reducing strength are not clear - such beverages could still contain more alcohol and calories than a comparable spirit. Elsewhere, while earlier reports acknowledged the problems from illicit alcohol, not enough is being done to tackle the issue. The proposals to address some of the difficulties in this area caused by denatured alcohol are, naturally, very welcome, but more needs to be done to quantify the scale of the problem; this would also facilitate the development of meaningful policy tools to address it.

The DG AGRI officials present undertook to pass our views and the presentation to DG TAXUD.

## 5. EXCISE TAX DISCRIMINATION WITHIN THE EU

FoodDrinkEurope gave a presentation with regards to 2 cases of unsanctioned excise tax discrimination against spirits in the internal market. In the first case, against Greece, the legitimate market for spirits has collapsed as a consequence of massive tax hikes in 2009-10, but it later emerged some local spirits were given unsanctioned tax breaks which shielded them; indeed the bulk tsipouro (“2 day”) market had expanded massively. The EU spirits sector is very grateful to the Commission for having referred the issue to the Court of Justice, albeit registering concerns that it had taken much longer to do so than usual. Some Copa Cogeca members noted the difficulties that local producers in Greece might face if they were subject to normal rates of tax.

In Hungary, the application of a Health Tax on some spirits but not others created tax preferences that had distorted the market in favour of local producers. Polish vodka exports to Hungary, for example, had fallen from 3.2 million litres to just 0.9 million litres. It introduced discrimination even within spirits categories, with some well known brands of ‘bitters’ subject to the tax and others not. The industry urged the Commission to take speedy action to bring this case also before the European Court.

## 6. NUTRITION AND INGREDIENT LABELLING

With DG SANTE officials unable to attend, FoodDrinkEurope made a presentation welcoming the Commission’s recent report which asked alcohol producers to prepare a proposal on how it would provide additional ingredient and nutrition information to consumers. The sector is already engaged in many initiatives in this area. One of the most important elements would be how to present information on energy, because the requirement for other foodstuffs (kcal per 100ml) would not work for alcoholic beverages. It would mislead consumers into thinking beer was the least calorific alcoholic beverage and spirits the most when, in fact, the reverse is true. References to 100ml would also contradict the sensible drinking messages and policies that had been in place for decades.

In addition, the sector stressed that information on-line rather than on-label would provide the means to provide information in a more comprehensive and meaningful way. COPA COGECAs reiterated that the label was, for small producers, often their only way to communicate brand and other values to consumers so any additional labelling requirements would be unwelcome. With the Commission having asked for the report within a year, the industry hoped that, as its thinking evolved, it could meet with officials during this period to discuss the options.

Separately, FoodDrinkEurope noted that a new draft had been circulated of the proposed implementing regulation on origin labelling (art 26.3 of regulation 1169/2011). It was grateful GIs remained outside the scope of the proposal and urged the Commission to begin discussions soon on the guidelines that

will be necessary. DG AGRI noted that the provision on origin (art. 12.2) in the new alignment text for 110/2008 was also helpful for our sector.

## 7. SWEDEN: MONOPOLY PRICING

FoodDrinkEurope gave a presentation setting out its concerns regarding the changes in pricing structure that had recently been introduced but which did not appear to be justified, given that they were based on a very narrow and unrepresentative study commissioned by the monopoly. The impact of the change was to favour locally produced beer and penalise imported spirits and wine. In response to a question from EFFAT, it did not appear that unions had been involved in the monopoly's study. Spirits producers urged the Commission to support a further, more representative study at an early stage.

## 8. CROATIA: MARKET ACCESS AND LABELLING BARRIERS

FoodDrinkEurope gave a presentation setting out again the industry's concerns regarding the new trade barriers Croatia had put in place and which were denying free movement to goods from elsewhere in the EU, some of which were held up for 3 weeks before they could enter the market. In addition, the country's requirement for 3 separate environment logos on packaging continued to be excessive and to no value to consumers. The sector had written to COM to register concerns and hoped the latter would be able to raise the problems directly with the Croatian authorities.

## 9. ESTONIA: SEVERE MARKETING AND ADVERTISING RESTRICTIONS

FoodDrinkEurope provided background on the recent TRIS-notified draft legislation. Among other things it would ban advertising, including in social media, even though it was not clear how the latter could be defined. New rules would also require alcoholic beverages to be hidden from sight in larger retail outlets, where imported spirits would be more likely to be sold. (Retail outlets stocking predominantly local products would not be affected.) The cumulative impact would be to prevent importers from securing any meaningful market access to the Estonian market. The trade urged the Commission to send a Detailed Opinion to oppose such a draconian set of measures. DG GROW urged the sector to submit views via TRIS at the earliest opportunity.

## 10. BULGARIA AND ROMANIA - RETAIL QUOTAS

FoodDrinkEurope made a presentation setting out recent developments in the 2 markets, in which minimum quotas for local produce in some retail stores had either been fixed or proposed. The trade was grateful for the Commission's early action against Romania and urged similar measures in the event that Bulgaria enacts its proposed quotas.

## 11. DONM

The next meeting will be held on the morning of Friday 13 October.

### *Disclaimer*

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