



REV 1

## DRAFT MINUTES

Civil Dialogue Group “Horticulture, olives and spirits”  
Monday 8 December 2014, 14.30-18.00  
Brussels

### LIST OF PARTICIPANTS

#### Stakeholders:

FoodDrinkEurope: Ignacio Sánchez Recarte (Chair), Antoni García Rojals, Lionel Lalague, Constance Balsamo, Bettina Breuer, César Lesage, Fanny Bour

COPA: David Brazsil, Mr Vertes, Mr Imbert, Mr Gorski

CEJA: Mr Alves

EFFAT: Gaetano Pensabene

IFOAM: Ana Marija Slabe

#### Commission:

Ms Moliterno (AGRI C2), Mr Erhart (AGRI B3), Maria Iusco (AGRI B3), Mr Verstraete (SANCO E3), Mr Hanekuyk (ENTR C4), Mr Szilagyí (TAXUD C3), Mr Briggs (SANCO E6) Mr Mac Gowan (AGRI I3), Mrs Muller (ENV A2) Mr Mathiudakis (SANCO E4), Ioannis Virvilis (AGRI A.4) Ms Brady (AGRI A4), Roberta Buttini (AGRI

### 1. APPROVAL OF THE AGENDA AND REPORT OF THE LAST MEETING (25/02/2014)

The agenda was adopted after the addition of two points under AOB:

- Bisphenol-A ban in France
- Implementation of Food Information to Consumer

The report of the last meeting was adopted.

## 2. ALIGNMENT OF REGULATION (EC) 110/2008 TO THE LISBON TREATY

The Industry underlined the urgency of adopting the provisions concerning the definition, presentation and labeling of spirit drinks included in the alignment of regulation 110/2008 to the Lisbon Agreement. It was asked to the Commission if it was possible to adopt a new Regulation aligning to the Lisbon Agreement only the definition, presentation and labeling sections and keeping the GI provisions in Regulation 110/2008 applying until the simplification of the quality schemes is completed.

DG AGRI responded that it was impossible and that the alignment process shall concern all the provisions included in Regulation 110/2008. In this framework it is improbable that the new alignment text could be adopted and published before the end of 2015.

DG AGRI confirmed that the text to be proposed by the Commission, shall be considered as a new Regulation and not just as an alignment of Regulation 110/2008 to the Lisbon Agreement as it will include several provisions already discussed with Member States during the adoption of Regulation 716/2013.

Concerning the simplification initiative, DG AGRI explained that President Juncker asked Commissioner Hogan for further simplification and that AGRI has 12 months (starting from November 2014) to complete the exercise.

He informed stakeholders that a meeting with Member States took place in November and that its Unit is currently analyzing the inputs received. The date of next meeting was not set yet but it should be around February 2015.

He confirmed that for the moment, no concrete proposal has been drafted.

The industry proposed to:

- prepare a concrete proposal that will suit the spirit industry necessities and
- participate in the next meeting of Commission Expert Group

DG AGRI raised possible concerns concerning the physical capacity to held such meeting and the willingness of the Member States. Nevertheless, the Commission would welcome a meeting on GIs, there are enough spaces for the industry to come.

In parallel, he highlighted that the discussions will continue to take place during the next CDG on Quality and Promotion in February 2015.

The Chair highlighted the proactive position of the industry concerning the simplification exercise and invited the rest of stakeholders to participate. He repeated the proposal of the industry of preparing a concrete proposal for the GI simplification and requested again to maintain a close cooperation with AGRI, including the participation to the next Expert group on Quality.

Finally he urged the Commission to adopt as soon as possible the provisions concerning the definition, presentation and labeling of spirit drinks included in Regulation 110/2008.

## 3. GEOGRAPHICAL INDICATIONS IN THE SPIRITS SECTOR – UPDATE ON

DG AGRI informed that from the 332 existing spirit GI in the Annex III of Regulation (EU) No 110/2008, for which the Member States t have to submit the technical files by 20 February 2015, 58 have been received so far. AGRI is currently analysing the files received.

From 1 January 2015, Member States will have to submit the technical files through the e-ambrosia platform.

In relation to new applications for registration, COM mentioned that the registration process of “Russian vodka” and “Tequila” followed its course. COM also informed that the new applications for registration regarding 4 Bulgarian rakyas and “Absinthe de Pontarlier” were being analysed.

The industry asked how the specific requirements, included in technical files, for bottling the spirit within a specific area will be assessed by the Commission.

DG AGRI explained that according to Regulation 716/2013, a justification for this requirement shall be given in the technical file. It was underlined that this is a restriction to the free circulation of services and therefore will be carefully examined in each technical file in order to assess the justification specific to each product. (specificity of the product or the impact on quality, for instance).

The industry asked if arguments based on the protection, traceability and control of the GI will be accepted and the Commission responded that it has not developed a list of acceptable justifications.

Concerning a possible limitation of the bottling outside of the EU, the Commission indicated that it should be examined at the light of the agreements with Third Countries and competition rules (cartels, etc.).

The spirits sector raised the question of the Italian submission concerning Grappa, and wondered why Italian government’s documents have been dismissed by the Commission. DG AGRI replied no information can be shared as the examination of the file is still on going.

#### 4. ETHYL CARBAMATE IN SPIRITS DRINKS

DG SANCO explained the history of the ethyl carbamate issue including details on EFSA’s scientific opinion , Commission Recommendation 2010/133/EU, on EFSA 2014 technical report and on the discussions with Members States on the follow up actions to be considered at the light of the EFSA’s 2014 technical report.

Concerning the meetings with Member States, he informed that as discussed at the 27 October 2014 meeting of the SANCO expert group on process contaminants, it was agreed at the Standing Committee on 28 November 2014 that it was not appropriate to set for the time being a maximum limit for ethyl carbamate. Instead, it was agreed to reinforce the code of practice through the adoption of a regulation and eventually to consider setting a lower target level to be achieved.

After a first consultation with Member States, a targeted consultation with stakeholders will be launched.

He informed that though there is no formal legal deadline, the adoption of the Regulation could be foreseen by April / May 2015.

Finally he confirmed that the exercise will be focus on the production of stone fruit spirits.

Considering the technicality of the production process of spirits, the Chair stressed the importance of maintaining a close collaboration between SANCO expert group, AGRI Committee for spirit drinks and the CDG 7. The SANCO representative agreed to this.

## 5. UPDATE ON METHODS OF ANALYSIS AND CONTROL IN THE SPIRIT SECTOR

DG AGRI informed that the draft regulation amending Regulation 2870/2000 will not be voted during the next Spirit Drink Committee in January. She explained that certain doubts remain concerning the existence of more updated methods and concerning the title of the method for the determination of the principal compounds extracted from wood during the ageing of spirit drinks.

Concerning this last method, DG AGRI clarified that the method will not be able to determine directly if the spirit controlled has undergone the exact aging time required in the definition and consequently can not be used to determine the direct compliance of a spirit drink with Annex II.

The industry agreed with this approach but stressed that the method will be useful as a tool for fighting the presence on the EU market of products coming from India presented as whisky but not complying with its definition. In addition it was requested to adopt as soon as possible the cited method of analysis.

Concerning the validation of new methods, the Chair asked if a collaboration between the Commission and the scientific and technical working group (GP.TS) of spiritsEUROPE could be envisaged. The Commission welcomed the proposal and the industry invited the Commission to participate in the next meeting of the GP.TS that will take place in February 2015.

## 6. DG ENTR STUDY ON THE REVISION OF DIRECTIVES 75/107/EEC, 76/211/EEC AND 2007/45 EC

DG ENTR, informed stakeholders that in the framework of the Refit programme, European Commission's Directorate-General for Enterprise and Industry has commissioned in 2014 a study of Directive 75/107/EEC, Directive 76/211/EEC and Directive 2007/45/EC to evaluate if the Directives in their current form are fit for purpose and whether they are relevant, coherent, and have an EU added value in achieving their objectives.

“Technopolis” and “VVA-Europe” are the consultants in charge of the preparation of the report ([Judith.vermeer@technopolis-group.com](mailto:Judith.vermeer@technopolis-group.com); [p.hausemer@vva.it](mailto:p.hausemer@vva.it)).

An online survey, only available in English, prepared by the Consultants has already been launched ([https://www.surveymonkey.com/s/Evaluation\\_prepackaging\\_directives](https://www.surveymonkey.com/s/Evaluation_prepackaging_directives)) and the Commission is going to launch a similar one in all the official languages around 15 January 2015:

<https://ec.europa.eu/eusurvey/runner/EvaluationoftheEURulesonnominalquantityandcapacityofprepackagedproducts>

The evaluation report is expected to be published by the Commission by the end of 2015.

The industry explained that the spirit sector was comfortable with the 3 Directives and happy to maintain the voluntary nature of the 3-marking and e-MARK and opposed to the liberalisation of the prescriptive quantities.

## 7. LEGISLATIVE INITIATIVES AND NATIONAL DEVELOPMENTS

### a. Hungarian excise cases on alcohol (ECJ ‘palinka’ ruling, spirits excise structure)

DG TAXUD explained the European excise system on ethyl alcohol and the reasons why the Commission opened an infringement procedure against Hungary as regards the excise exemption for Palinka. He reminded of the decision of the Court of Justice of the European Union and informed that Hungary will comply, from 1 January 2015, with European law for which concerns contract distillation (manufactured in a distillery on behalf of a fruit grower within the limits of 50L). However, the infringement procedure will continue until the tax flat rate (1000 HUF (3.3 EUR)) for private distillation is not adapted to the European legal framework.

Concerning the second case with Hungary, DG TAXUD recalled that an infringement procedure has been launched against Hungary for applying a double rate of excise duties for ethyl alcohol while a single standard rate must be applied according to Directives 2008/118 and 92/83. He informed that the infringement procedure would be closed after the adoption, with effect from 1 January 2015, by the Hungarian Parliament of a single excise rate on ethyl alcohol.

However, in parallel to the adoption of a single excise rate, Hungary has adopted a “Health Tax” on alcoholic beverages from which certain spirits would be exempted (grape marc, herbal and fruit spirits), which are produced in Hungary as well. This tax has been notified to the Commission (TRIS notification 2014/546/HU). The services of the Commission have serious concerns as regards that “health tax” and therefore they will contact the Hungarian Government in the EU Pilot system before the end of December 2014.

To prove that this tax is discriminatory and in violation of article 110 of the TFEU, it is necessary for DG TAXUD to receive detailed information from stakeholders on taxed and exempted products as well as on the market structure for the purposes of proving that the exempted products are similar or substitutable to taxed products. The problem, however, is that the exemption also applies to imported products.

The spirit industry discussed the arguments to be used to fight this discriminatory new tax, and informed the Commission that a formal letter of concerns will be sent before the end of 2014. The Commission says it will have to reassess the matter once a translated version of the legal documents is available, and will sue Hungary again before the Court of Justice if necessary.

#### **b. Serbian discriminatory excise structure; definition of spirits under Serbian law**

DG AGRI recalled that the Commission has been working closely with Serbia to harmonize Serbian legislation with EU Law. In this respect, a screening exercise took place early this year and the Screening Report will be present to the Council in the coming weeks.

The Commission informed that during the latest exchanges in July 2014, concerns were raised in relation with category definitions and highlighting mandatory particulars to be indicated on the label.

It was underlined that the Commission continues to raise the issue of Serbia's discriminations excise duties against applied on imported spirits where a distinction in taxation levels is applied on spirits made from grain (mostly imported) as opposed to fruit spirits (mostly domestic). The Commission also highlighted the fact that excise duties have to be paid before that the product is imported.

DG AGRI informed stakeholders that, DG TRADE proposes to address a letter on the matter to the Serbian Ministry of Finance by the end of 2014 and that the issues will be on the agenda of the March 2015 Stabilisation and Association Committee meeting.

The industry requested to be informed of the discussions and propose its expertise for the assessment of draft Serbian legislation texts.

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### **c. Swiss yield taxation**

The industry showed concern about a draft law on “yield” taxation in Switzerland that would provide inappropriate tax preferences for local producers.

DG AGRI, noted that the name of this issue should be amended to “Swiss alcohol taxation” and gave a summary of the situation.

The law should not be voted on its current form, as it appears that one of the two Swiss chambers, considers the draft is in violation of the Swiss Constitution as well as of the country's international obligations . The Swiss Government is well aware of these obligations but it has limited influence on the Parliament.

Considering the disagreement between the two Chambers of the Swiss parliament, a compromise will have to be reached as it is improbable that the draft will just be abandoned.

DG AGRI noted that this topic is regularly included in the agenda of official meetings with the Swiss authorities (e.g. EU-CH Working group meeting of wine and spirit drinks of 23 October 2014 ,EU-CH Joint Committee on Agriculture of 21 November 2014, CH - EU FTA Joint Committee of 14 December 2014).

## **8. PACKAGING AND PACKAGING WASTE DIRECTIVE - PACKAGING RECOVERY NOTE**

DG ENV gave an overview and update of the state of play of the European Commission legislative proposal to review recycling and other waste-related targets in the Waste Framework Directive . the Landfill Directive and the Packaging and Packaging Waste Directive 94/62/EC, which is part of the Commission's Circular Economy Package, adopted on 2 July 2014.

She explained that that this proposal was currently in first reading, but that no agreement had yet been reached by the Council and Parliament. , The new Commission has revealed that it will review and possibly withdraw the Circular Economy Package. The future of the Circular Economy Package and the legislative proposal to modify targets for recovery and recycling would become clear when the Commission would finalise its work programme for 2015 on 16 December 2014.

Stakeholders claimed that some targets in the proposal were considered too ambitious and in relation with the Extended Producer Responsibility, they requested the Commission to consider a shared responsibility across all the supply chain including municipalities.

The Commission informed that there is no intention to put all the responsibility on producers only, but that this responsibility is a shared one, depending on the respective roles of the different actors.

## **9. AoB**

## **1. French spirit Decree**

DG AGRI confirmed that the Commission has analysed the draft decree and has request some clarifications to France.

The industry raised their concerns because the draft decree seemed to apply not only to French products but also to all EU and non EU products.

### **1. Bisphenol A ban in France**

Stakeholders recalled that France is to enforce legislation by 1 January 2015 that will ban bisphenol A in all food and drinks packages in France and requested information on EFSA report.

Mr Briggs explained that the adoption of EFSA opinion on BPA was expected to be approved this week during the Plenary meeting of the CEF panel responsible for BPA. The publication of the opinion is foreseen in January 2015.

The Commission will then consider the opinion and any follow up action once it is published as EFSA opinion will not integrate a risk management advice.

Stakeholders asked about Commission's action if a divergence appears between EFSA opinion and the French law. The Commission recalled that whilst measures that are not specifically harmonised at EU level can be set by Member States, legislation on food contact materials legislation determines that safeguard measures set by Member States in harmonised areas must be addressed by the Commission.. The difference in opinion by the two risk assessment bodies should also be addressed. Mr Briggs informed that DG ENTR is also working on the dossier as regards the functioning of the internal market.

Concerning the questions related to the presence of functional barriers between the BPA and the food, the Commission explained that there are rules concerning use of functional barriers for plastics and that if it can be demonstrated that there is no migration, then, there is no subsequent exposure. Each situation need to be assessed based on a risk assessment.

## **2. Food Information to Consumers**

Following the questions of the industry, DG SANCO explained that:

- the implementing acts foreseen in article 26.8 are still pending
- the report foresee in article 26.5 should be published in January 2015
- the report foresee in article 16.4 was on hold because of the change of Commissioners. DG SANCO is waiting for instructions from hierarchy and for the moment there is no clear timeline for its production.

In relation with the revision of the QUID Guidelines, DG SANCO explained that Commission's intention was to align the 1996 QUID with the FIC regulation.

To the question on the possible cancellation of the examples given for Liqueurs and fruit based spirits, DG SANCO explained that following the comments received from Member States, the Commission may keep both exemptions. The new QUID will be presented at 15th January at the occasion of the meeting of Commission working group on FIC.

In relation to Commission Q&A on FIC, industry asked when will it be published. DG SANCO informed stakeholders that a final version of the document was sent to Member States last week and that the general part of the Q&A should be published before the end of the year. Instead, the section related to the nutritional information will take some more time.

The industry explained that the required suffix and the optional prefixes for the indication of the alcoholic strength were far from been harmonized across all the different linguistic version of the FIC and that this lack of harmonization represented a problem for producers.

It was asked if the easier possibility for solving this problem was to propose a Corrigendum for each linguistic version that would need to be modified or completed.

The Commission asked for further information on this point and responded that, in general, it was up to the Member States to propose a change on their linguistic versions.

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