

Draft Minutes of the Advisory Group meeting on “Quality of agricultural production” (16-10-2012)

The meeting was chaired by Dr. BENVENUTTI

1. Approval of the agenda and the minutes of the last meeting held on 04-07-2012

The agenda and the minutes were approved without further comments.

2. Legislative proposal on Agricultural product quality schemes

a. State of play of discussions and timing for adoption and publication

A representative from the European Commission (COM) introduced the subject. The COM representative informed the participants of the European Parliament plenary vote which took place on 13 September 2012: at this occasion, the EU MEPs agreed with compromise which had been found by the 3 Institutions at the trilogue meeting on 20 June 2012. The text shall now be formally adopted by the Council prior to its publication in the Official Journal which is expected by the end of 2012.

b. Information concerning areas subject to delegated and implementing acts and focus on implementation aspects related to the optional quality term for “mountain product”

A COM representative presented the point. She briefly outlined the contributions (i.e. contributions from Euromontana, Copa-Cogeca, **German Dairy Industry Association** and the French Chambers of Agriculture) received in response to the questionnaire circulated by the COM services at the last Advisory Group meeting on 4 July 2012. She also explained that the Joint Research Center (JRC) of the European Commission is due to publish a study (by the end 2012) evaluating the benefits of labelling measures targeting mountain products. The preparation of the implementing measures (via delegated act) should start from 2013 onwards. In the meantime, eventual contributions from stakeholders' organisations are still welcome.

The Chair opened the floor to the participants for eventual comments/questions.

CELCAA asked for some clarifications with regard recital 44 of the text which empowers the COM to adopt guidelines for the application of the optional quality term “mountain product”: in particular the delegate asked whether the COM services intend to introduce an EU logo for these products. A question was also raised about how to deal with terms close to "mountain product" (for example Bergkäse; terms which include "Alps") or with pictures and photos of mountains.

Copa-Cogeca expressed its satisfaction as to the introduction of the new optional quality term “mountain product”. Copa and Cogeca also agree with the principle that all stages of production (farming of raw materials, preparation, processing in case of processed product) shall take place in the same area, whilst allowing certain derogations to apply in duly justified cases (e.g. for certain feeding stuffs). Copa and Cogeca are however of the view that the establishment of additional criteria associated with the production methods is unnecessary.

Euromontana also welcomed the final outcome of the discussions and insisted on the need to establish “safeguards” in order to prevent misleading labelling.

Origin also expressed its content with the final outcome and underlined the importance of having sufficient flexibility when implementing the new EU system in order to take account of the national situations.

In response to various request for clarification, **the COM representative** explained that the adoption of guidelines for the application of the term “mountain product” is only a possibility foreseen by the legislator. Furthermore, there is no legal basis in the text of the new Regulation for the introduction of an EU logo for “mountain products”.

The COM representative also clarified the fact that the application of the new optional quality term “mountain product” is not pending the adoption of rules (via delegated act) defining the specific conditions of implementation (e.g. when it comes to the sourcing of the raw material or the processing step, on how to define the term “essentially”): in concrete terms, this means that from the entry into force of the Regulation, the use of the term “mountain product” for product not entirely originating from “mountain areas” may be considered as violating the eligibility criteria provided for by the EU Regulation (i.e. see the conditions of use provided for in article 31.1). Exception for use of the term "mountain product" exists in case of legally protected names (for example trade marks).

With regard to terms close to "mountain product", the COM representative explained that if the national authorities decide that the use of such terms is misleading the consumers, this may be an issue for the Court.

c. Focus on new provisions concerning TSGs

The Chair opened the floor for questions/comments.

One delegate from CELCAA referred to the particular case of mozzarella. He explained that in case this product was to be registered as a TSG “with reservation of the name”, it is likely that several third parties will lodge an opposition procedure considering the fact that the term is already used in another Member State or in a third country: according to art. 18.3. of the Regulation, the decision of registration may provide that the name of the traditional speciality guaranteed is to be accompanied by the claim ‘*made following the tradition of*’ immediately followed by the name of a country or a region thereof. The delegate expressed the concerns that this new system may create some serious risks of confusion for the operator.

COM representative argued that possible risks of confusion may be overcome by complementing a TSG with other qualifications like “traditional method” or "specific character". This possibility would need to be assessed on a case by case basis.

3. State of play of discussions regarding the legislative proposal on the future of the CAP on quality related issues (Proposal for a Regulation on support for rural development)

A COM representative introduced the subject.

As a preliminary remark, he explained that the outcome of the discussions on the 2013-2020 RD proposal depends among others on the final decision on the next financial framework (MFF) - which in the best case scenario would not intervene before December 2012 but most probably in February 2013. On the basis of the COM proposal dating from October 2011, the COM services have already

started the discussions in the working parties of the Council, while an important amount of amendments have been submitted by the EP. At the same time the COM services are working on the preparation of delegated /implementing acts, while in parallel new EU framework on State aid for the period 2014-20 are under preparation. Considering the delays on the MFF, a political agreement on the CAP proposal would not be expected before May 2013.

As to Article 17 on “Quality Schemes” of the proposal for a Regulation on support for Rural Development, he explained that new eligibilities are proposed during 2014-20 such as opening the measure to Non-food Annex I products, to cotton (which is not an Annex I product), but as well to voluntary agricultural products certification schemes recognized by the MS. .

The Chair opened the floor to the participants for eventual comments/questions.

Euromontana asked whether the new optional quality terms introduced in the new Reg. on quality schemes would also be eligible to the support measures which are foreseen by Article 17 of the text.

Copa-Cogeca inquired the COM services about the criteria in order to assess whether voluntary agricultural product certification schemes do meet the Union best practice guidelines¹ for the operation of voluntary certification schemes. **One representative from Copa-Cogeca** asked whether Producer Groups and Producer Organisations’ activities in the field of promotion of “quality products” would be eligible to the support measures foreseen by Article 36. **Another Copa-Cogeca delegate** called for the introduction of a definition of “active farmer” in the text of the Regulation.

Origin expressed its regrets with the fact that the option of introducing management tools for PDO and PGI products was finally discarded in the framework of the proposal for a Regulation on quality schemes and expressed the wish that these would be taken into account in the framework of the discussions on the proposal for a Regulation on the single CMO (CAP legislative package).

The COM representative explained that criteria for assessing the compatibility of voluntary certification schemes with EU best practice guidelines would be addressed among others through implementing acts. The COM representative also indicated that the new “Optional Quality Terms” are not integrated for the moment in Art. 17 of the Rural Development proposal but might be introduced in the consolidated version in case the Presidency proposes so. This will cover at the same time the “Mountain products”. Finally, he explained that the promotion activities under Art 36 will take place exclusively at local context level relating to the development of short supply chains and local markets. Further details on the type of eligibilities and type of beneficiaries will be set in the implementing acts. .

The Chair asked for clarification about the effective application and the future of the Communication of the Commission regarding “optional certification schemes for agriculture products and foodstuffs” (2010/C 341/04) published on February 2011 and never more discussed after: are furthermore steps going to be expected in the next months? If not, how the aspects regarding accreditation and recognizing by the EU will be solved?

The COM representative explained that this document will not see further steps, because its main goal is to put an official EU guideline regarding Quality Assurance Schemes in the food sector but no more EU initiatives are forecast. Its effective application and the possibility to endorse private or public schemes under this EU guideline is delegated to the MS, now, following the principle that B2B initiatives shouldn’t be supported by EU funding, because “already supported by the market”.

¹ Commission Communication – EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs, OJ C 341, 16.12.2010, p. 5.

4. Follow up of the discussions within the WG “product from my farm” (5 July 2012) and next steps concerning the issue of labelling for local farming/direct sales

The COM representative presented the main conclusions of the Working group “Product from my farm” which was held on 5 July 2012.

She explained that the purpose of the Working Group is to discuss the different possible EU measures in order to help local farmers to sell their produce: the options presented varied from best practice guidelines to labelling arrangements and comprehensive schemes.

The following issues were more specifically addressed during the discussions of the working group:

- the participants underlined the importance of the terminology and of the definitions associated (e.g. use of the term “local” versus “product from my farm”);
- the group has agreed that it will be important to ensure that farmers remain owners of the product including the setting of the final price;
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- the group has considered the possibility of creating a “product labelling scheme” (by limiting a number of intermediaries and restricting the distance over which sales can be made), including the introduction of an EU logo;
- the group has also discussed the issue of control arrangements (including a system of prior authorization and group certification);
- the group has also addressed possible instruments to address the issue of local farming and direct sales, notably the advantages and disadvantages of a Commission Communication, Commission Guidelines, introduction of a new term and of a new scheme. DG AGRI services will notably use the input from this WG as well contributions from Member States in order to draft Commission Report which should be presented no later than 12 months after the entry into force of the Regulation on quality schemes. In parallel, the COM services have commissioned a study through the JRC on the issue of “short food supply chains” which is under preparation by the University of Coventry. The results of this study will also be used for the purposes of the Commission Report.

DG AGRI services have examined whether the concepts of “product from my farm”/“local product” meet the requirements for an optional quality term as defined in the new Regulation.

The Chair asked whether the COM services intend to draw any conclusions on issues where no agreement could be found amongst the different members of the WG “Product from my farm”. The COM representative made clear that the objective of the Commission Report is not to reflect the details of the discussions which were held in the WG but rather to focus on issues which were deemed of major importance (irrespective of any agreement on them in the group).

The Chair then opened the floor to the participants for eventual comments/questions.

Several participants questioned the COM about the timing and the modalities of consultations of stakeholders. In particular, several delegations underlined the importance of organizing appropriate consultation when deciding whether the Commission Report should be accompanied by legislative proposals.

The COM representative indicated that no new meetings of the WG “product from my farm” had been scheduled but the COM is to regularly inform the members of this WG as well as the members of the AG of the outcome of these discussions.

The Chair concluded the point by proposing that the conclusions of the study on “short food supply chains” are presented at the occasion of the next Advisory group meeting.

5. Information on the “future of EU promotion policy for agricultural products”

a. follow up of the legislative discussions on the EC communication on promotion policy

The COM representative briefly referred to the EU Parliament discussions on the Communication from 31 March and outlined the proposals of reform voted in the Bové report which was adopted by the Agri Committee of the European Parliament on 25 September 2012.

b. preparation of the EC legislative proposal

The COM representative informed the participants that the publication of the legislative proposal which was initially foreseen by the end of the year is finally postponed to the 2nd trimester of 2013.

In response to the different requests for clarifications as to this delay, the COM representative explained that this postponement was mainly due to planning reasons.

Several participants from Copa-Cogeca stressed the need to allocate sufficient CAP budget for promotion activities and that a specific budget for the purposes of promoting logos/symbols associated with the EU quality schemes can be safeguarded.

6. Information on the issue of origin labelling

a. Information on the preparation of implementing rules of Regulation 1169/2011 and articulation with the concept of “place of farming” (draft Reg. on the single CMO Regulation)

A COM representative (DG AGRI services) informed the participants that DG AGRI services recently commissioned a private consultant - *the Economic Research Institute of the university of Wageningen* - to undertake a study which would examine and compare the different options of implementing origin labelling for fresh and frozen meat (for unprocessed poultry, pig, sheep and goat meat) in view of the preparation of the future legal provisions to be prepared European Commission as foreseen art 26 2 . b of regulation 1169/2011. This consultant will notably organize workshop on 26 October in order to seek the views of EU stakeholders on this issue.

Another COM representative (DG SANCO services) indicated that DG SANCO has commissioned a study for the purpose of the implementation of art 26. 3 of Regulation 1169/2011 on voluntary origin labelling and on the preparation of a report examining the need/feasibility of introducing compulsory origin labelling rules for meat when used as an ingredient. The consultant in charge is currently launching a consultation towards EU stakeholders’ organisations. When developing this study, this co contracting party may in particular collect relevant examples from the fruit and vegetables processing sector, confectionary industry and snacks and prepared dishes.

The COM representative explained that the works on the reports regarding the mandatory indication of the “country of origin” or “place of provenance” for other issues covered by the Regulation (i.e. other meats, unprocessed food, single ingredient products, ingredients that represent more than 50% of a food, milk and milk used as an ingredient – report to be published by 13 December 2014) had not started yet.

The Chair then opened the floor to the participants for comments/questions.

A discussion was held amongst the participants on the modalities of introducing origin labelling rules: several participants stressed the importance of ensuring sufficient transparency towards EU consumers whilst some others warned against the creation of disproportionate costs for operators.

In response to questions raised by the participants, **the COM representative** indicated that the decision on whether the origin of the product for unprocessed meat (i.e. pig meat, poultry, sheep and goat meat) should be indicated on an EU or national basis had not been taken yet. **The COM representative** also confirmed the fact that alcoholic beverages are covered by the study on voluntary origin labelling and by the report on ingredients which represent more than 50% of a food?

b. Update on the WTO dispute with the United States on country of origin labelling (COOL) and its possible consequences on EU legislation

A COM representative briefly introduced the point.

The COM representative referred to the information provided at the occasion of the last AG meeting on 4 July 2012. The WTO Panel had found that the US statutory provisions and implementing regulations setting out the United States' mandatory country of origin labelling regime for beef and pork ("COOL measure") violated the TBT Agreement because it accords less favourable treatment to imported Canadian cattle and hogs than to domestic products (violation of Article 2.1 of the TBT Agreement) and because it does not fulfil the legitimate objective of providing consumers with "information on origin" (violation of Article 2.2 of the TBT Agreement).

The US who lost the panel appealed and the case then went to the WTO Appellate Body.

The COM representative informed the participants of the conclusions Appellate Body report dating from 29 June 2012: in its analysis under Article 2.1 of the TBT Agreement, the Appellate Body agreed with the Panel that the COOL measures have a detrimental impact on imported livestock because its recordkeeping and verification requirements create an incentive for processors to use exclusively domestic livestock, and a disincentive against using like imported livestock. The Appellate Body found, however, that the Panel's analysis was incomplete because the Panel did not consider whether this de facto detrimental impact stems exclusively from a legitimate regulatory distinction, in which case it would not violate Article 2.1. In its own analysis, the Appellate Body found that the COOL measure lacks "even-handedness" because its recordkeeping and verification requirements impose a disproportionate burden on upstream producers and processors of livestock as compared to the information conveyed to consumers through the mandatory labelling requirements for meat sold at the retail level. Therefore, the detrimental impact on imported livestock cannot be said to stem exclusively from a legitimate regulatory distinction, and instead reflects discrimination in violation of Article 2.1.

In its analysis under Article 2.2 of the TBT Agreement, the Appellate body found that the Panel properly identified the objective of the COOL measure which is "to provide consumer information on origin" but found that the Panel erred in its interpretation and application of this principle. The Panel appeared to have considered, incorrectly, that a measure could be consistent with Article 2.2 only if it fulfilled its objective completely or exceeded some minimum level of fulfilment, and to have ignored its own findings, which demonstrated that the COOL measure does contribute, at least to some extent, to achieving its objective. The Appellate Body therefore reversed the Panel's finding that the COOL measure is inconsistent with Article 2.2, but was unable to determine whether the COOL measure is more trade restrictive than necessary to fulfil a legitimate objective within the meaning of Article 2.2.

Following this ruling, the US authorities would have committed to bring their legislation into compliance with the appeal body. A reasonable period (usually 1 year and half) would have been left to them to bring their legislation into compliance.

The Chair then opened the floor to the participants for comments/questions.

CELCAA inquired the COM services about the compatibility of EU legislation and of the EU beef regime with the Regulation on food information to consumers.

The COM representative replied that there are some strong reasons to believe that the EU legislation complies with the TBT agreement since this is not source of discrimination with regard imported products.

7. Information on the recent call for tender concerning a study assessing the added value of PDO/PGI products (21-07-2012)

A COM representative introduced the subject. She explained that the study will cover all types of PDOs and PGIs for a total budget of around 300 000 Euros. The contract should be awarded and signed by the end of the year.

The Chair then opened the floor to the participants for eventual comments/questions.

Several participants underlined the need for considering the differences between each sector and between traditional and industrial production. A few participants also recommended that this study includes an in depth analysis of the repartition of the added value along the chain and of the actual costs implied for the operators (including the variation of prices as a consequence of the volatility).

8. AOB

a. Conclusions of the Euro barometer on “Europeans’ attitudes towards food security, food quality and the countryside” (July 2012)

The COM representative introduced the subject.

The COM representative explained that this survey was conducted in all MS and that in total 26 500 persons had been interviewed. Average recognition of PDO/PGI logo has risen from 8% in the year 2008 to 14% in the year 2012. However, the results of this survey clearly show that the level of recognition of PDOs/PGI products amongst consumers is in on average much lower than for other EU and or national logos (i.e. the logo for organic products 24%, the “fair trade” logo 36%).

The Chair then opened the floor to the participants for eventual comments/questions.

BEUC explained that these figures tend to show that the multiplication of logos would not bring any real added value to consumers.

Several participants also concluded that these figures demonstrate that actions taken for the promotion of PDO and PGI schemes were not satisfactory.

b. State of play on the implementation of the “Lisbon Treaty procedures acts” (Delegated acts/implementing acts) AQA(12)7361

A COM representative briefly introduced the point.

The Chair thanked the participants and closed the meeting.

Disclaimer

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