

Meeting between GROW and MARS representative
Place Mr Pettinelli office, Date 11 June 2019 16:30 to 17:30
Subject Courtesy visit

BRIEFING NOTE

Scene setter/Context of the meeting:

You were asked to replace DG Timo Pesonen in a meeting with MARS incorporated. MARS wishes to exchange views on current and upcoming EU priorities for the industrial competitiveness and the Single Market of the food drink sector, and present its commitments.

It is a courtesy visit which is likely to focus on the upcoming industrial strategy, dual quality of food, challenges for the single market, the priorities for the five next years, overview of trade agreements (Japan, US, Australia and New Zealand) and the legal framework for new technologies in genetics (mutagenesis).

During preparatory exchanges, MARS showed interest to discuss the last years CJEU ruling on mutagenesis. On 25 July 2018 the CJEU has decided that all plants obtained through modern plant breeding techniques should fall under the strict GMO approval process.

After having mapped the genome of cocoa, MARS finances important research to understand how to ensure that cocoa becomes more resistant to climate change, including through new techniques like mutagenesis. They will likely try to convince you to liaise with SANTE on this and convey to them the importance of this issue for the industry.

Objective of the meeting:

To gather information related to MARS concerns relating to the functioning of the food supply chain, the single market and trade.

To canvass their priorities and ideas for the future work of the Commission.

KEY messages

Growth and jobs will likely remain a cornerstone of future Commission policy. The food industry has a key role to play in taking up innovation, AI and new technologies.

The effective and frictionless functioning of the Single Market is essential to promote growth, jobs and consumer welfare. Thanks to the four freedoms, European consumers can enjoy diverse, safe and affordable food products.

We welcome MARS's environmental commitments set out in its Sustainable in a Generation Plan. The European Elections has shown that climate change is becoming a political priority number one for many European citizens and this will be likely reflected in the Commission agenda.

We would like to see concrete ideas on how the food business in Europe can contribute to the fight against climate change.

We plan to intensify our efforts on the Trade agenda, hoping to facilitate the access to markets for Europe-based food exporters.

Line to take

Priorities of the next Commission

1. As the major decisions regarding the shape of the future Commission are just now starting to take place, it is still far too early to predict the Commission priorities for industrial policy.
2. Having said that, I can confidently say that the Single Market is and will remain a cornerstone of our food policy. This means we remain committed to tackling all remaining barriers in the single market for food, regardless of whether they originate in national rules or business practices, as well as tackling unfair commercial practices, infringements as

Territorial Supply Constraints and behaviours misleading consumers confidence.

3. The High Level Forum for a Better Functioning Food Supply Chain was mandated by the Commission, with the support of the European Council, to work on “Dual Food Quality”. This issue is not going to go away, and the food industry should be prepared to show stronger engagement on this topic.
4. Overall, we want to create environment allowing the European food supply chain to remain a global champion in the next decades.

CJEU ruling on mutagenesis

- 1.** Thank you for bringing this to my attention. This is something that our colleagues in SANTE are very well aware of and fully competent on this issue.
- 2.** The European Commission as a whole is committed to ensuring a legal framework that is conducive to innovation and stimulating technological progress.

International agreements

With a view to improve the competitiveness of the food industry, the Commission strives to decrease the custom duties of our trading partners particularly in the sector of biscuits and chocolates where DG GROW plays a leading role in the trade negotiations. For instance, the recent agreement EU-Japan entered into force on the 1st February 2019 whereby all the biscuits and the retailed chocolates are liberalised within 5 to 10 years.

Defensives:

Question: Will there be another Forum?

Answer: The decision to renew the Forum in whatever form lies with the next Commission. It is therefore very difficult to speculate about this at this stage. However, it is certain that the Commission will listen to the opinions of the current Forum Members in this respect. Should there be a successor to the current HLF, we will work to ensure that its composition, working methods and Member engagement are up to the challenges it will have to face.

Question: When will the results of JRC testing campaign be published?

Answer: To the best of my knowledge the results might be published shortly. I don't have any further information in this respect. (Might change in the next days!)

Background information

Name of the Director who has cleared the briefing: Carlo Pettinelli

BASIS request ID: Basis (GROW/6857)

Room, time: tbc, 11 June 2019, 16:30

Participants: Director Carlo Pettinelli, L

Name of main contact person:

Telephone number:

Directorate/Unit: D/3

For each item on the Agenda

About MARS

Mars is an American global manufacturer of confectionery, pet food, and other food products and a provider of animal care services, with US\$33 billion in annual sales in 2015. It was ranked as the 6th largest privately held company in the United States by Forbes. Headquartered in McLean, Virginia, United States, the company is entirely owned by the Mars family. MARS is a member of food drink Europe.

MARS's Sustainable in a Generation Plan

Sustainable in a Generation Plan addresses key areas of the United Nation's Sustainable Development Goals and features ambitious goals informed by science. The plan focuses on three key areas — Healthy Planet, Thriving People and Nourishing Wellbeing. It was adopted in September 2017 and foresees spending over 1 billion euros on climate change and fighting poverty over the next few years.

Mutagenesis CJEU ruling

In 2016, France asked the ECJ to clarify whether a variety of herbicide-resistant rapeseed obtained through new plant breeding techniques (NPBTs) should follow the GMO approval process.

The term NPBTs describes a number of scientific methods for the genetic engineering of plants to enhance traits like drought tolerance and pest resistance.

The agri-food industry was of the opinion that the plants obtained through these techniques could also be the product of conventional cross-breeding

techniques that mimic natural processes and hence cannot be considered GMOs.

Their opponents considered this just another attempt at selling “hidden” GMOs to European farmers, who will simultaneously lose their right to use their own seeds. Their basic argument is that all these techniques should fall under the strict GMO approval process.

In the preliminary ruling to the case C-528/16 the CJEU has decided that Article 2(2) of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC must be interpreted as meaning that organisms obtained by means of techniques/methods of mutagenesis constitute genetically modified organisms within the meaning of that provision.

“Organisms obtained by mutagenesis are GMOs within the meaning of the GMO Directive, in so far as the techniques and methods of mutagenesis alter the genetic material of an organism in a way that does not occur naturally,” the ECJ said in its ruling.

“It follows that those organisms come, in principle, within the scope of the GMO Directive and are subject to the obligations laid down by that directive,” it added.

Advocate General Michal Bobek issued his opinion in January, saying that organisms obtained by mutagenesis – the case which is under examination – are, in principle, exempt from the obligations in the GMO directive. In practice, ECJ usually follows the Advocate’s opinion.

International agreements

As regards Japan – EU FTA and concerning the goods of our competency produced by MARS, the Japanese custom duties will be liberalised in 10 years for all confectionaries, the retail chocolates as well, and the biscuits between 5 and 10 years

Concerning USA, in June 2018 the Trump administration raised duties on steel, breaching the relevant WTO provisions. Thus, the Commission answered with an increase of European duties of which no biscuits neither chocolates were involved. The President Trump threatened to increase US duties on cars. In order to avoid a trade war, an agreement in July 2018 between President Trump and President Juncker was concluded. It foresees to start a negotiation on standards and on NAMA (Non Agricultural goods)

custom duties. The first talks were held in February – March 2019. In the meantime, the EU lost a panel on Airbus which give lawful possibility of retaliation to the US administration. The US retaliation list entails sweet biscuits (1905 31 00). This list is deemed to enter into force in September 2019. However, the US lost a WTO panel on subventions given to Boeing, which gives right to EU to implement a retaliation list but later than the one of Airbus.

Concerning Australia, the first exchange of offer did not take place yet insofar as the Australian did not make enough progress in recognition of the Geographical Indications. However, the offers on rules of Origin have been exchanged and preliminarily examined during the last round (March 2019).

With regard to New Zealand, given its goodwill in the field of Geographical Indication, an exchange of offer took place ahead of the last round. The New Zealand was dissatisfied with the EU offer particularly on dairy products and requested the EU to improve its offer ahead of the next round (July 2019).

