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NOTE

from:	General Secretariat of the Council
to:	Working Party on Foodstuff Quality
on:	1 and 2 March 2011
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No. Cion prop	17672/10 - COM (2010) 733 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council on agricultural product quality schemes - Presidency compromise text

Delegations will find attached a compromise text drafted by the Presidency of the above mentioned proposal which takes into account the discussions of the Working Party on 9-10 February and the comments and suggestions made by delegations (cf. doc. 6678/11).

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on quality schemes of agricultural products and foodstuffs

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) and Article 118(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The quality and diversity of European Union agricultural production is an important strength and competitive advantage for European Union producers and part of the Union's living cultural and gastronomic heritage. This is due to the skills and determination of European Union farmers and producers who have kept alive traditions while taking into account developments of new production methods and material.
- (2) Citizens and consumers in the European Union increasingly demand product of quality as well as traditional products. They are also concerned to maintaining the diversity of the agricultural production in the European Union. This generates a demand for agricultural products or foodstuffs with an identifiable specificity, in particular for geographical origin.
- (3) Producers can only continue to produce diverse and quality products if they are fairly rewarded for their effort. This requires that they are able to communicate to buyers and consumers the characteristics of their product under conditions of fair competition. It also necessitates that their products are correctly identified on the marketplace.
- (4) Assisting producers, by means of the operation of quality schemes, to be rewarded for their efforts to produce a diversity of quality products, can benefit the rural economy.

¹ OJ C , , p. .

² OJ C , , p. .

This is particularly the case in less favoured areas, where the farming sector accounts for a significant part of the economy. In this way quality schemes contribute to and complement rural development policy as well as market and income support policies of the common agricultural policy (CAP).

- (5) EU 2020 policy priorities as set out in the Communication from the Commission, EU 2020 a strategy for smart, sustainable and inclusive growth³, include the aims of achieving a competitive economy based on knowledge and innovation and fostering a high-employment economy delivering social and territorial cohesion. Agricultural product quality policy should therefore provide producers with the right tools to better identify and promote their products having specific characteristics while protecting them against unfair practices.
- (6) The set of different complementary measures envisaged should respect the principles of subsidiarity and proportionality.
- (7) Agricultural product quality policy measures are laid down in the following Regulations :
 - Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails⁴;
 - Council Directive 2001/110/EC of 20 December 2001, related to honey⁵ and in particular Article 2 thereof;
 - Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union⁶ and in particular Article 14 of Title IV 'Graphic symbol' thereof;
 - Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialities guaranteed⁷;
 - Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs⁸;
 - Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)⁹ and in particular Part II, Title II, chapter I, section I 'Marketing rules' and Section Ia, Subsection I 'Designations of origin and geographical indications' thereof;

³ Communication from the Commission 'EUROPE 2020 A strategy for smart, sustainable and inclusive growth', COM(2010) 2020

⁴ OJ L149, 14.06.1991, p. 1

⁵ OJ L 10, 12.1.2002, p. 47

⁶ OJ L 42, 14.2.2006, p. 1.

⁷ OJ L 93, 31.3.2006, p. 1.

⁸ OJ L 93, 31.3.2006, p. 12.

⁹ OJ L 299, 16.11.2007, p. 45.

- Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91¹⁰;
 - Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89¹¹.
- (8) The labelling of agricultural products and foodstuffs should be subject to the general rules laid down in Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs¹².
- (9) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on agricultural product quality policy¹³ identified achieving a greater overall coherence and consistency of agricultural product quality policy as a priority.
- (10) The geographical indications scheme for agricultural products and foodstuffs, traditional specialities guaranteed scheme, and voluntary labelling rules have certain common objectives and provisions.
- (11) The European Union has for some time been pursuing the aim of simplifying the regulatory environment of the CAP. This approach should also be applied to agricultural product quality policy Regulations.
- (12) Some Regulations that form part of the agricultural product quality policy have been reviewed recently and are not yet fully implemented. Against this background, this Regulation should not include those measures. However, it may be envisaged to incorporate them at a later stage once the legislation has been fully implemented.
- (13) In the light of the aforementioned considerations, the following provisions should be amalgamated into a single legal framework:
- New or updated provisions of Regulations (EC) No 510/2006 and (EC) No 509/2006;
 - Provisions of Regulations (EC) No 510/2006 and (EC) No 509/2006 that are maintained;
 - Provisions concerning voluntary labelling rules of Regulation (EC) No 1234/2007 and Directive 2001/110/EC
- (14) In the interests of clarity and transparency, Regulations (EC) No 509/2006 and (EC) No 510/2006 should therefore be repealed and replaced by this Regulation.

¹⁰ OJ L 189, 20.7.2007, p. 1.

¹¹ OJ L 39, 13.2.2008, p. 16.

¹² OJ L 109, 6.5.2000, p. 29.

¹³ COM(234)2009final

- (15) The scope of this Regulation should be limited to agricultural products intended for human consumption listed in Annex I to the Treaty and to a list of products outside the scope of the said Annex that are closely linked to agricultural production or to the rural economy.
- (16) The rules provided for in this Regulation should apply without affecting existing Union legislation on wines, aromatised wines spirit drinks, product of organic farming, or outermost regions.
- (17) The scope for designations of origin and geographical indications should be limited to products for which an intrinsic link exists between product or foodstuff characteristics and geographical origin. The inclusion in the former scheme of only certain types of chocolate as confectionery products is an anomaly that should be corrected.
- (18) The specific objectives of protecting designations of origin and geographical indications are for farmers and producers to secure fair return for the qualities of product and provide clear information on products with specific characteristics linked to geographical origin, enabling consumers to make more informed purchasing choices.
- (19) Ensuring uniform respect throughout the Union of the intellectual property rights related to names protected in the Union is also an objective that can be achieved more effectively at Union level.
- (20) A Union framework for protection of designations of origin and geographical indications, with their inclusion into a register, permits their development since, by providing a more uniform approach, such a framework ensures fair competition between the producers of products bearing such indications and enhances the credibility of the products in the consumer's eyes. Provision should be made for the development of designations of origin and geographical indications at Union level.
- (21) Based on the experience gained following the implementation of Council Regulation (EEC) No 2081/1992 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs¹⁴ and Regulation (EC) No 510/2006, there is a need to address certain issues, to clarify and simplify some rules and streamline the procedures of this scheme.
- (22) In the light of existing practice, two different instruments identifying the link between the product and its geographical origin should be defined and maintained, namely the protected designation of origin and the protected geographical indication. However, without changing their concept as such, some modifications to the definitions should be adopted to better take into account the definition of geographical indications laid down in the Agreement on Trade-Related Aspects of Intellectual Property Rights and to clarify and simplify their understanding by operators.
- (23) An agricultural product or foodstuff bearing such a geographical description should meet certain conditions set out in a specification.

¹⁴ OJ L 208, 24.7.1992, p. 1. Regulation repealed and replaced by Regulation (EC) No 510/2006

- (24) To qualify for protection in the territories of the Member States, designations of origin and geographical indications should only be registered at Union level. Member States should be able to grant transitional protection at national level without affecting intra-Union or international trade, with effect from the date of application for registration at the Union level. The protection afforded by this Regulation, subject to registration, should be equally open to designations of origin and geographical indications of third countries that meet the corresponding criteria and that are protected in their country of origin.
- (25) The registration procedure at Union level should enable any natural or legal person having a legitimate interest in a Member State, other than the Member State of the application, or in a third country, to exercise their rights by notifying their opposition.
- (26) Entry in the register of protected designations of origin and protected geographical indications should also provide information to those involved in trade and to consumers.
- (27) The Union is negotiating with its trade partners international agreements including protection of designations of origin and geographical indications. In order to facilitate public information about names so protected, and in particular to ensure protection and control of the use of the said names, they may be entered in the register of protected designations of origin and protected geographical indications. Unless specifically identified as designations of origin in the said agreements, the names should be entered in the register as protected geographical indications.
- (28) In view of their specific nature, special provisions as to labelling should be adopted for protected designations of origin and protected geographical indications, requiring producers to use the appropriate Union symbols or indications on packaging. The use of such symbols or indications should be made obligatory in the case of Union names, on the one hand, to make this category of products and the guarantees attached to them better known to consumers and, on the other, to permit easier identification of these products on the market so as to facilitate checks. Taking into account the requirements of the World Trade Organization, the use of such symbols or indications should be made voluntary for geographical indications and designations of origin originating in a third country.
- (29) Protection should be granted to names included in the register, aiming to ensure fair use and prevent practices liable to mislead consumers. In addition, the means to ensure the protection of geographical indications and designations of origin should be clarified notably as to the role of the producer groups and the competent authorities of Member States.
- (30) Specific derogations permitting the use of a registered name alongside other names for a limited period should be foreseen, although simplified and clarified. In specific cases, to overcome temporary difficulties with the long term objective to have all producers complying with the specifications, specific derogations may be granted up to a period of 10 years.

- (31) The scope of the protection granted under this Regulation should be clarified, in particular with regard to limitations on registration of new trade marks under Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks¹⁵ that conflict with the registration of protected designations of origin and protected geographical indications as is already the case for the registration of new trade marks at Union level. Such a clarification should also be introduced with regard to holders of prior rights in intellectual property, notably concerning trade marks and homonymous names registered as protected designations of origin or as protected geographical indications.
- (32) Protection of designations of origin and geographical indications should be extended to misuses, imitations and evocations of the registered names on goods as well as on services in order to ensure a high level of protection and align the protection with that applicable for the wine sector.
- (33) The names already registered under Regulation (EC) No 510/2006 on the date of entry into force of this Regulation should continue to be protected under this Regulation and automatically included in the register.
- (34) The specific objective of the scheme for traditional specialities guaranteed is to assist the producers of traditional products in communicating the value adding attributes of their product to consumers. However, with only few names registered, the current scheme for traditional specialities guaranteed has failed to meet its potential. Current provisions should therefore be improved, clarified and focussed in order to make the scheme more understandable, operational and attractive to potential applicants.
- (35) The former scheme provided the option to register a name for identification purposes without reservation of the name in the Union. As this option was not well understood by stakeholders and since the function of identifying traditional product can be better achieved at Member State or regional level in application of the principle of subsidiarity, the option should be discontinued. In the light of experience, the scheme should only concern reservation of names across the Union.
- (36) To ensure that names of genuine traditional products are registered under the scheme, other criteria and conditions for registration of a name should be reviewed, in particular concerning the definition of 'traditional' that should be changed to cover products that have been produced for a highly significant period of time. To improve protection of the culinary heritage of the Union, the scope of the traditional specialities guaranteed scheme should henceforth be more clearly focussed on prepared meals and processed products.
- (37) To ensure compliance with, and the consistency of, the traditional specialities guaranteed, producers organised into groups should themselves define the product in a specification. The option of registering a name as traditional speciality guaranteed should be open to third-country producers.

¹⁵ OJ L 299, 8.11.2008, p. 25.

- (38) To qualify for reservation, traditional specialities guaranteed should be registered at Union level. Entry in a register should also provide information to those involved in the trade and to consumers.
- (39) In order to avoid creating unfair conditions of competition, any producer, including third-country producers, should be able to use a registered name and, where appropriate, the Union symbol associated with the indication ‘Traditional speciality guaranteed’, provided that the product complies with the requirements of the relevant specification and the producer is covered by a system of controls.
- (40) In order to protect registered names from misuse or practices that might mislead consumers their use should be reserved.
- (41) For the names already registered under Regulation (EC) No 509/2006 that, on the date of entry into force of this Regulation, would not be covered by the scope of this Regulation, the terms of use laid down in that Regulation should continue to apply for a transitional period.
- (42) Provision should also be made for transitional measures applicable to registration applications received by the Commission before the entry into force of this Regulation.
- (43) The marketing standards should be clearly divided between obligatory rules maintained in the common market organisation legislation and the optional quality terms, which should be included in the architecture of the quality schemes. The optional quality terms should continue to support the aims of the marketing standards and thus be limited in scope to product listed in Annex I to the Treaty.
- (44) In the light of the objectives of the present Regulation and in the interest of clarity, existing optional quality terms should be governed by this Regulation.
- (45) With a view to the coherent development of optional quality terms describing specific product characteristics and attributes, provision should be made to confer the Commission the power to reserve an additional term, amend the product coverage or the conditions of use of, or cancel an optional quality term by means of delegated acts.
- (46) The added value of the geographical indications and traditional specialities guaranteed is based on the consumer trust, which is only credible if accompanied by effective verification and controls. These quality schemes should be subject to a monitoring system of official controls, in line with the principles set out in Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules¹⁶, including a system of checks at all stages of production, processing and distribution. To help Member States to better apply provisions of Regulation (EC) 882/2004 for the controls of geographical indications and traditional specialities guaranteed, references to the most relevant articles are mentioned in the current Regulation.

¹⁶ OJ L 191, 28.5.2004, p. 1.

- (47) To guarantee to the consumer the specific characteristics of geographical indications and traditional specialities guaranteed, operators should be subject to a system of verification of compliance with the product specification.
- (48) The competent authorities should meet a number of operational criteria so as to ensure their impartiality and effectiveness. Provisions on delegating some competences of performing specific control tasks to control bodies should be envisaged.
- (49) European standards (EN standards) developed by the European Committee for Standardisation (CEN) as well as international standards developed by the International Organisation for Standardisation (ISO) should be used for the operation and accreditation of the control bodies. Accreditation of those bodies should be performed in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products¹⁷
- (50) Information on control activities for geographical indications and traditional specialities guaranteed should be included in the multiannual national control plans and annual report prepared by the Member States following the provisions of Regulation (EC) No 882/2004.
- (51) Member States should be authorised to charge a fee to cover the costs incurred.
- (52) Existing rules concerning the continued use of names that are generic should be clarified to the effect that generic terms that are similar to or form part of a name or term that is protected or reserved should retain such generic status.
- (53) The dates for establishing the seniority of a trade mark and of a designation of origin or a geographical indication should be that of the date of application of the trade mark for registration in the Union or in the Member States and the date of application for protection of a designation of origin or a geographical indication to the Commission.
- (54) The provisions for refusal or coexistence of a designation of origin or a geographical indication on the ground of conflict with a prior trade mark should be continued.
- (55) The criteria by which subsequent trade marks should be refused or if registered invalidated for reason of conflict with a prior designation of origin or geographical indication should correspond to the scope of protection of designation of origin or a geographical indication laid down.
- (56) The provisions of systems establishing intellectual property rights, and in particular those established by the quality scheme for designations of origin and geographical indications and those established under trade mark law, should take precedence over the reservation of names and establishment of indications and symbols pursuant to the quality schemes for traditional specialities guaranteed, and for optional quality terms.

¹⁷ OJ L 218, 13.08.2008, p. 30.

- (57) The role of groups should be clarified and recognised. Groups play an essential role in the application process for the registration of names of designations of origin and geographical indications and traditional specialities guaranteed, including amendments of specifications and cancellation requests. The group can also develop activities related to the surveillance of the enforcement of the protection of the registered names, the compliance of the production with the product specification, the information and promotion of the registered name as well as in general any activity aiming to improve the value of the registered names and effectiveness of the quality schemes. Nevertheless, these activities should not facilitate nor lead to anti-competitive conduct incompatible with Articles 101 and 102 of the Treaty.
- (58) To ensure that registered names of designations of origin and geographical indications and traditional specialities guaranteed meet the conditions laid down by this Regulation, applications should be examined by the national authorities of the Member State concerned, subject to compliance with minimum common provisions, including a national opposition procedure. The Commission should subsequently scrutinise applications to ensure that there are no manifest errors and Union law and the interests of stakeholders outside the Member State of application are taken into account.
- (59) Registration of names of designations of origin and geographical indications and traditional specialities guaranteed that satisfy the conditions laid down by this Regulation should be open to names relating to product originating in third countries.
- (60) The symbols, indications and abbreviations identifying participation in a quality scheme and the rights therein pertaining to the Union, should be protected in the Union as well as in third countries with the aim of ensuring that the said symbols, indications and abbreviations are used on genuine product and that consumers are not misled as to the qualities of product. Furthermore, in order that the protection should be effective, the Commission should have recourse to reasonable budgetary resources on a centralised basis within the framework of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)¹⁸ and in accordance with Article 5 of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy¹⁹.
- (61) The registration procedure for a protected designation of origin, a protected geographical indication and a traditional speciality guaranteed, including scrutiny and opposition period, should be shorten and improved, in particular as to decision making. The decision making on registration should be under responsibility of the Commission, and under certain conditions with the assistance of Member States. Procedures should be laid down to permit amendment of product specifications after registration, and cancellation of the registered names, in particular if compliance with the corresponding product specification is no longer ensured or if a name is no longer used in the market place.
- ~~(62) The Commission should have the power to adopt delegated acts in accordance with Article 290 of the Treaty in order to supplement or amend certain non-essential~~

¹⁸ OJ L 277, 21.10.2005, p. 1.

¹⁹ OJ L 209, 11.8.2005, p. 1.

elements of this Regulation. The elements for which that power may be exercised should be defined, as well as the conditions to which that delegation is to be subject.

In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission.

(62a) The implementing powers relating to [the relevant provisions of the basic legal act conferring implementing powers on the Commission which are subject to control by the Member States] should be exercised in accordance with Regulation (EU) No.../2011 of the European Parliament and of the Council of ... laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers.

~~(63) In order to guarantee a uniform application of this Regulation in all Member States, the Commission should be empowered to adopt implementing acts in accordance with Article 291 of the Treaty. Save where explicitly provided otherwise, the Commission should adopt those implementing acts in accordance with the provisions of Regulation (EU) No XX/XXXX of the European Parliament and the Council of ... on ...²⁰,~~

The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of [...]. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

HAVE ADOPTED THIS REGULATION:

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Title I

INTRODUCTORY PROVISIONS

Article 1

Subject matter

1. This Regulation is designed to assist producers of agricultural products **and foodstuffs** to communicate the product characteristics and farming attributes of those products to buyers and consumers ensuring:
 - fair competition for farmers and producers of agricultural products having value adding characteristics and attributes,
 - reliable information pertaining to such products is available to consumers,
 - observance of intellectual property rights, and
 - the integrity of the internal market.

The measures herein are intended to foster agricultural and processing activities and farming systems associated with high quality products thus contributing to the achievement of rural development policy.

2. This Regulation establishes ‘quality schemes’ which provide the basis for the identification and, where appropriate, protection of, names and terms that indicate or describe in particular agricultural products having:
 - (a) value-adding characteristics, or
 - (b) value-adding attributes due to the farming or processing methods used in their production, or due to the place of their production or marketing.

Article 2

Scope

1. This Regulation covers agricultural products intended for human consumption listed in Annex I to the Treaty and other products listed in Annex I to this Regulation to the extent therein indicated.

~~However, the quality scheme set out in Title III of this Regulation shall not apply to unprocessed agricultural products.~~

~~In order to ensure that the products covered by this Regulation are closely linked to agricultural products or to the rural economy, the Commission may, by means of delegated acts, amend Annex I thereto.~~

In order to take into account market needs, international relations or new production methods or material, the Commission shall be empowered to adopt delegated acts, in accordance with Article 53, which supplement the list of products set out in Annex I to this Regulation. Such products shall be closely linked to agricultural products or to rural economy.

2. This Regulation shall not apply to grapevine products with the exception of wine-vinegars, or to spirit drinks or to aromatised wines.
3. This Regulation shall apply without prejudice to other specific Union provisions relating to placing of product on the market, in particular on the single common organisation of the markets, or on food labelling.
4. Directive 98/34/EC of the European Parliament and of the Council²¹ shall not apply to the quality schemes established by this Regulation.

Article 3

Definitions

For the purposes of this Regulation:

- (1) 'quality schemes' means the schemes established under Titles II, III and IV;
- (2) 'group' means any association, irrespective of its legal form, mainly composed of **operators who produce or process** ~~producers or processors working with the same product;~~
- (3) 'traditional' means proven usage on the domestic market for a time period allowing transmission between generations; this time period should be the one generally ascribed to ~~two~~ **one** generations, at least ~~50~~ **25** years; **this definition does not apply for Annex II;**
- (4) 'labelling' has the same meaning as in point (a) of Article 1(3) of Directive 2000/13/EC;
- (5) 'specificity' in relation to a product refers to the characteristic and production attributes which distinguishes a product clearly from other similar products of the same category;
- (6) "generic terms" means the terms which include those names of product which, although relating to the place, region or country where the product was originally produced or marketed, have become the common name of a product in the Union;
- (7) 'production step' means one of the following: production, processing or preparation. The packaging is not part of the production steps;**
- (9) 'processed product' has the same meaning as in point (o) of Article 2(1) of Regulation (EC) No 852/2004.**

²¹ OJ L 204, 21.7.1998, p. 37

Title II

PROTECTED DESIGNATIONS OF ORIGIN AND PROTECTED GEOGRAPHICAL INDICATIONS

Article 4

Objective

A scheme for protected designations of origin and protected geographical indications is established in order to assist producers of products linked to a geographical area by:

- (a) securing fair returns for the qualities of their products;
- (b) ensuring uniform protection of the names as an intellectual property right in the territory of the European Union;
- (c) providing clear information on the value adding attributes of the product to consumers.

Article 5

Definitions of designation of origin and geographical indication

1. For the purpose of this Title, the following definitions shall apply:

- (a) 'designation of origin' is a name which identifies a product:
 - (i) originating in a specific place, region or, in exceptional cases, a country,
 - (ii) where the quality or characteristics of the product are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and
 - (iii) the production steps of which all take place in the same defined geographical area;
- (b) 'geographical indication' is a name which identifies a product:
 - (i) originating in a specific place, region or, **in exceptional cases, a** country,
 - (ii) where a given quality, reputation or other characteristic of the product is essentially attributable to its geographical origin, and
 - (iii) at least one of the production steps of which take place in the defined geographical area.

2. Notwithstanding point (a) of paragraph 1, certain names shall be treated as designations of origin where the raw materials for the products concerned come from a geographical area larger than, or different from, the defined geographical area, provided that:
- (a) the production area of the raw materials is defined;
 - (b) special conditions for the production of the raw materials exist; and
 - (c) there are control arrangements to ensure that the conditions referred to in point (b) are adhered to.

The designations of origin in question must have been recognised as designations of origin in the country of origin before 1 May 2004.

- 3.** ~~In order to take into account the specificities related to certain sectors~~ **products** or areas, the Commission ~~may, by means of delegated acts, adopt restrictions and derogations regarding the steps of production which shall take place in the defined geographical area or regarding the sourcing of raw materials~~ **shall be empowered to adopt delegated acts in accordance with Article 53, concerning restriction and derogations with regard to:**

~~- the steps of production which shall take place in the defined geographical area; or~~

~~- the localization of certain steps of production within the defined geographical area; or~~

~~- the sourcing of raw materials.~~

These restrictions and derogations shall take into account, based on objective criteria, quality or usage and recognized know-how, or natural factors or the development of disadvantaged regions.

Article 6

Generic nature, conflicts with names of plant varieties and animal breeds, with homonyms and trade marks

1. Names that have become generic may not be registered as protected designations of origin or protected geographical indications.
2. A name may not be registered as a designation of origin or geographical indication where it conflicts with a name of a plant variety or an animal breed and is likely to mislead the consumer as to the true origin of the product.
3. A name proposed for registration that is wholly or partially homonymous with a name already entered in the register established under Article 11 may be registered provided there is sufficient distinction in practice between conditions of **local and**

traditional usage and presentation of the homonym registered subsequently and the name already entered in the register, so as to not mislead the consumer.

4. A name proposed for registration as a designation of origin or geographical indication shall not be registered where, in the light of a trade mark's reputation and renown and the length of time it has been used, registration of the name proposed as the designation of origin or geographical indication would be liable to mislead the consumer as to the true identity of the product.

Article 7

Product specification

1. To be eligible for a protected designation of origin or a protected geographical indication, a product shall comply with a specification which shall include at least:
 - (a) the name to be protected as designation of origin or geographical indication;
 - (b) a description of the product, including the raw materials, if appropriate, **and as well as** the principal physical, chemical, microbiological **and/or** organoleptic characteristics of the product ;
 - (c) the definition of the geographical area and, where appropriate, details indicating compliance with the requirements of Article 5(2);
 - (d) evidence that the product originates in the defined geographical area referred to in point (a) or (b) of Article 5(1);
 - (e) a description of the method of obtaining the product and, **where appropriate**, the authentic and unvarying local methods and, ~~where applicable~~, information concerning packaging, if the applicant group so determines and gives reasons why the packaging must take place in the defined geographical area to safeguard quality or ensure the origin or ensure control;
 - (f) details bearing out the following:
 - (i) the link between the quality or characteristics of the product and the geographical environment referred to in point (a) of Article 5(1) or, as the case may be;
 - (ii) the link between a given quality, the reputation or other characteristic of the agricultural product or foodstuff and the geographical origin referred to in point (b) of Article 5(1);
 - (g) the name and address of the authorities or bodies verifying compliance with the provisions of the product specification pursuant to Article 34 and their specific tasks;
 - (h) any specific labelling rule for the product in question;

32. In order to ensure that product specifications provide relevant and succinct information, the Commission ~~may, by means of delegated acts, lay down~~ **shall be empowered to adopt delegated acts in accordance with Article 53 concerning** further rules as to the content of a product specification.

Article 8

Content of application for registration

1. An application for registration of a designation of origin or geographical indication as referred to in Article 46(2) or Article 46(5) shall include at least:
 - (a) the name and address of the applicant group;
 - (b) the product specification provided for in Article 7;
 - (c) a single document setting out the following:
 - (i) the main points of the product specification: the name, a description of the product, including, where appropriate, specific rules concerning packaging and labelling, and a concise definition of the geographical area;
 - (ii) a description of the link between the product and the geographical environment or geographical origin referred to in points (a) or (b) of Article 5(1), as the case may be, including, where appropriate, the specific elements of the product description or production method justifying the link.

An application as referred to in Article 46(5) shall in addition include proof that the name of the product is protected in its country of origin.

2. An application dossier referred to in Article 46(4) shall comprise:
 - (a) the name and address of the applicant group;
 - (b) the single document referred to in point (c) of paragraph 1;
 - (c) a declaration by the Member State that it considers that the application lodged by the applicant group and qualifying for the favourable decision meets the conditions of this Regulation and the provisions adopted pursuant to it;
 - (d) the publication reference of the product specification.

~~The Member State shall ensure that the version of the product specification on which its favourable decision, pursuant to Article 46(4), is based, is published, and shall provide electronic access to the product specification.~~

Article 9

Transitional national protection

A Member State may, on a transitional basis only, grant protection to a name under this Regulation at national level, with effect from the date on which an application is lodged with the Commission.

Such national protection shall cease on the date on which either a decision on registration under this Regulation is taken or the application is withdrawn.

The consequences of such national protection, where a name is not registered under this Regulation shall be the sole responsibility of the Member State concerned.

The measures taken by Member States under the first paragraph shall produce effects at national level only, and shall have no effect on intra-Union or international trade.

Article 10

Grounds for opposition

1. A **reasoned** statement of opposition as referred to in the ~~first~~ **fourth** sub-paragraph of Article 48(1) shall be admissible only if it is received by the Commission within the time limit and if it:
 - (a) shows non-compliance with the conditions referred to in Article 5;
 - (b) shows that the registration of the name proposed would be contrary to paragraphs 2, ~~or~~ 3 **or** 4 of Article 6;
 - (c) shows that the registration of the name proposed would jeopardize the existence of an entirely or partly identical name or of a trade mark or the existence of products which have been legally on the market for at least five years preceding the date of the publication provided for in point (a) of Article 47(2); or
 - (d) gives details from which it can be concluded that the name for which registration is requested is generic.
2. The grounds for opposition shall be assessed in relation to the territory of the European Union.

Article 11

Register of protected designations of origin and protected geographical indications

- ~~1. The Commission shall, by means of implementing acts without the assistance of the Committee referred to in Article 54, establish and maintain updated a register of protected designations of origin and protected geographical indications recognised under this scheme, which shall be publicly accessible.~~

The Commission shall [...] establish and maintain a publicly accessible updated register of protected designations of origin and protected geographical indications recognised under this scheme.

2. Designations of origin and geographical indications pertaining to products of third countries that are protected in the Union under an international agreement to which the Union is a contracting party may be entered in the register. Unless specifically identified in the said agreement as protected designations of origin under this Regulation, such names shall be entered in the register as protected geographical indications.
3. The Commission may, by means of implementing acts, ~~without the assistance of the Committee referred to in Article 54, lay down the form and content of the register~~ **adopt detailed rules on the form and content of the register. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).**

Article 12

Names, symbol and indications

1. Protected designations of origin and protected geographical indications may be used by any operator marketing a product conforming to the corresponding specification.
2. Union symbols designed to publicise protected designations of origin and protected geographical indications shall be established.
3. In the case of products originating in the Union, marketed under a protected designation of origin or a protected geographical indication registered in accordance with the procedures laid down in this Regulation, the indications 'protected designation of origin' or 'protected geographical indication' or the Union symbols associated with them shall appear on the labelling. In addition, the corresponding abbreviations "PDO" or "PGI" may appear on the labelling.
4. In the case of products originating in third countries marketed under a name entered in the register, the indications referred to in paragraph 3 or the Union symbols associated with them may appear on the labelling.

5. In order to ensure the appropriate information is communicated to the consumer, the Commission shall ~~by means of delegated acts, define~~ **be empowered to adopt delegated acts in accordance with Article 53 concerning the definition of** the technical characteristics of the Union symbols as well as **the** rules on the labelling of products marketed under a protected designation of origin or a protected geographical indication, including as to the appropriate linguistic versions to be used.

Article 13

Protection

1. Registered names shall be protected against:
- (a) any direct or indirect commercial use of a registered name in respect of products not covered by the registration insofar as those products are comparable to the products registered under that name or insofar as using the name exploits the reputation of the protected name;
 - (b) any misuse, imitation or evocation, even if the true origin of the product ~~or service~~ is indicated or if the protected name is translated **or used in a service** or accompanied by an expression such as ‘style’, ‘type’, ‘method’, ‘as produced in’, ‘imitation’ or similar;
 - (c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the product concerned, and the packing of the product in a container liable to convey a false impression as to its origin;
 - (d) any other practice liable to mislead the consumer as to the true origin of the product.

Where a protected designation of origin or a protected geographical indication contains within it the name of a product which is considered generic, the use of that generic name shall not be considered to be contrary to points (a) or (b) of the first subparagraph.

2. Protected designations of origin and protected geographical indications may not become generic.
3. Member States shall take the appropriate administrative and judicial steps to prevent or stop the unlawful use of protected designations of origin and protected geographical indications as referred to in paragraph 1, in particular at the request of a producer group as provided for in point (a) of Article 42.

Article 14

Relations between trade marks, designations of origin and geographical indications

1. Where a designation of origin or a geographical indication is registered under this Regulation, the registration of a trade mark the use of which would contravene Article 13 and which relates to a same type of product shall be refused if the application for registration of the trade mark is submitted after the date of submission of the registration application to the Commission.

Trade marks registered in breach of the first subparagraph shall be invalidated.

2. Without prejudice to Article 6(4), a trade mark the use of which contravenes Article 13 which has been applied for, registered, or established by use, if that possibility is provided for by the legislation concerned, in good faith within the territory of the European Union, before the date on which the application for protection of the designation of origin or geographical indication is submitted to the Commission, may continue to be used and renewed for that product notwithstanding the registration of a designation of origin or geographical indication, provided that no grounds for its invalidity or revocation exist under Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark²² or under Directive 2008/95/EC. In such cases, the use of the protected designation of origin or protected geographical indication shall be permitted as well as use of the relevant trade marks.
3. The provisions of paragraph 1 shall apply notwithstanding the provisions of Directive 2008/95/EC.

Article 15

Temporary derogations for use of protected designations of origin and protected geographical indications

1. Without prejudice to Article 14, products originating in a Member State or a third country other than the one of the applicant the designation of which comprises or contains a name that contravenes Article 13(1) may continue to use the protected name for a transitional period of up to five years, solely where an admissible statement of opposition under Article 48 shows that:
 - (a) the registration of the name would jeopardise the existence of an entirely or partly identical name, or;
 - (b) such products have been legally marketed with that name in the territory concerned for at least five years preceding the date of the publication provided for in the first indent of Article 47(2).

²² OJ L 78, 24.3.2009, p. 1.

2. Without prejudice to Article 14, the Commission may, by means of implementing acts, decide to extend the transitional period mentioned in paragraph 1 to 15 years in duly justified cases where it is shown that

a) the entirely or partly identical name has been in legal use consistently and equitably for at least 25 years before 24 July 1993;

b) the purpose of using the designation not respecting the specification has not, at any time, been to profit from the reputation of the registered name and it is shown that the consumer has not been nor could have been misled as to the true origin of the product.

3. When using a designation referred to in paragraphs 1 and 2, the indication of country of origin shall be clearly and visibly indicated on the label.
4. In specific cases, to overcome temporary difficulties with the long term objective to have all producers complying with the specification, the Member State may also grant a transitional period up to 10 years, with effect from the date on which the application is lodged with the Commission, on the condition that the producers concerned have legally marketed the products in question, using the names concerned continuously for at least the past five years prior to the lodging of the application to the Commission.

The first subparagraph shall apply *mutatis mutandis* to a protected geographical indication or protected designation of origin referring to a geographical area situated in a third country.

Such transitional periods shall be indicated in the application dossier referred to in Article 8(2).

Article 16

Transitional provisions

1. Names entered in the register provided for in Article 7(6) of Regulation (EC) No 510/2006 shall be automatically entered in the register referred to in Article 11 of this Regulation. The corresponding specifications shall be deemed to be the specifications referred to in Article 7. Any specific transitional provisions associated with such registrations shall continue to apply.
2. In order to protect the rights and the legitimate interests of producers or stakeholders concerned, the Commission ~~may, by means of delegated acts, lay down~~ **shall be empowered to adopt delegated acts in accordance with Article 53 concerning** additional transitional rules.
3. This Regulation shall apply without prejudice to any right of coexistence of designations of origin and geographical indications on the one hand, and trade marks on the other hand, that applied under Regulation (EC) No 510/2006.

Title III

TRADITIONAL SPECIALITIES GUARANTEED

Article 17

Objective

A scheme for traditional specialities guaranteed is established in order to assist producers of traditional product in marketing and communicating the value adding attributes of the product to consumers.

Article 18

Criteria

1. A name shall be eligible for registration as a traditional speciality guaranteed where it describes a specific ~~processed~~ product that:
 - (a) results from a mode of production ~~and~~ **or** composition corresponding to traditional practice for that product, ~~and~~ **or**
 - (b) is produced from raw materials or ingredients that are those traditionally used.
2. To be registered, a name shall:
 - (a) have been traditionally used to refer to the specific product; or
 - (b) identify the traditional ~~form~~ **character or the specificity** of the product.
- 3. To be registered, the name shall also contain a reference to a geographical location if it is used in more than one region of the European Union or in a third country to identify similar products or products that share a common historical tradition.**
- ~~34.~~ A name may not be registered if it refers only to claims of a general nature used for a set of products, or to those provided for by particular Union legislation.
- ~~45.~~ In order to ensure a smooth functioning of the scheme, the Commission ~~may, by means of delegated acts,~~ **shall be empowered to adopt delegated acts in accordance with Article 53, which** further define the eligibility criteria required.

Article 19

Product specification

1. To be eligible for a traditional speciality guaranteed, a product shall comply with a specification which shall comprise:
 - (a) the name proposed for registration, in the appropriate linguistic versions;
 - (b) a description of the product including **where appropriate** its main physical, chemical, microbiological or organoleptic characteristics, showing the product's specificity;
 - (c) a description of the production method that the producers must follow, including the nature and characteristics of the raw materials or ingredients used, and the method of preparation of the product; and
 - (d) the key elements of the product's traditional character.
2. In order to ensure that product specifications provide relevant and succinct information, the Commission may, by means of ~~delegated acts~~ **implementing** acts, lay down rules for the preparation of a product specification. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).**

Article 20

Content of application for registration

1. An application for registration of a name as a traditional speciality guaranteed referred to in Article 46(2) or Article 46(5) shall comprise:
 - (a) the name and address of the applicant group;
 - (b) the product specification as provided for in Article 19.
2. An application dossier referred to in Article 46(4) shall comprise:
 - (a) the elements referred to in paragraph 1 of this Article, and
 - (b) a declaration by the Member State that it considers that the application lodged by the group and qualifying for the favourable decision meets the conditions of this Regulation and the provisions adopted pursuant to it.

Article 21

Grounds for opposition

1. A **reasoned** statement of opposition as referred to in the ~~first~~ **fourth** sub-paragraph of Article 48(1) shall be admissible only if it is received by the Commission within the time limit and if it:
 - (a) gives duly substantiated reasons why the proposed registration is incompatible with the terms of this Regulation, or
 - (b) gives details of prior use of a name that could be jeopardised by the proposed registration.
2. The criteria referred to in point (b) of paragraph 1 shall be assessed in relation to the territory of the European Union.

Article 22

Register of traditional specialities guaranteed

1. ~~The Commission shall, by means of implementing acts without the assistance of the Committee referred to in Article 54, establish and maintain updated a register of traditional specialities guaranteed recognised under this scheme, which shall be publicly accessible.~~
The Commission shall [...] establish and maintain a publicly accessible updated register of traditional specialties guaranteed, recognised under this scheme.
2. The Commission may, by means of implementing acts, ~~without the assistance of the Committee referred to in Article 54, lay down~~ **adopt detailed rules on** the form and content of the register. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2)**

Article 23

Names, symbol and indication

1. A name registered as a traditional speciality guaranteed may be used by any operator marketing a product conforming to the corresponding specification.
2. A Union symbol designed to publicise the traditional specialities guaranteed scheme shall be established.
3. In the case of the products originating in the Union, marketed under a traditional speciality guaranteed registered in accordance with this **the procedures laid down in this Regulation, the indication 'traditional speciality guaranteed' or the Union symbol associated with it shall** referred to in paragraph 2 shall, without prejudice to paragraph 4, appear on the labelling. **In addition, the corresponding abbreviation "TSG" may appear on the labelling.**

~~The symbol shall be optional on the labelling of traditional specialities guaranteed which are produced outside the Union.~~

~~The symbol referred to in paragraph 2 may be supplemented or replaced by the indication 'traditional speciality guaranteed'.~~

4. In the case of products originating from third countries marketed under a name entered in the register, the indication or the Union symbol and abbreviation referred to in paragraph 3 may appear on the labelling.

5. In order to ensure that the appropriate information is communicated to the consumer, the Commission shall ~~by means of delegated acts, define~~ **be empowered to adopt delegated acts in accordance with Article 53 concerning the definition of** the technical characteristics of the Union symbol as well as **the** rules on the labelling of the products bearing the name of a traditional speciality guaranteed, including as to the appropriate linguistic versions to be used.

Article 24

Restriction on use of registered names

1. Registered names shall be protected against any misuse, imitation or evocation, or against any other practice liable to mislead the consumer.
2. Member States shall ensure that sales descriptions used at national level do not give rise to confusion with names registered.
3. The Commission may, by means of implementing acts, lay down rules for the protection of traditional specialities guaranteed. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).**

Article 25

Transitional provisions

1. Names registered in accordance with Article 13(2) of Regulation (EC) No 509/2006 ~~describing products within the scope of this Title~~, shall be automatically entered in the register referred to in Article 22 of this Regulation. The corresponding specifications shall be deemed to be the specifications referred to in Article 19. Any specific transitional provisions associated with such registrations shall continue to apply. ~~Such names describing products falling outside the scope of this Title may continue to be used under the conditions provided for in Regulation (EC) No 509/2006, until 31 December 2017.~~
2. Names registered in accordance with ~~the requirements laid down in the first subparagraph of Article 1(1), and in Article 13(1) of Regulation (EC) No 509/2006~~, including those registered pursuant to applications referred to in the second subparagraph of Article ~~54~~**55**(1) of this Regulation, may continue to be used under the conditions provided for in Regulation (EC) No 509/2006 until 31 December **2027**.

3. In order to protect the rights and the legitimate interests of producers or stakeholders concerned, the Commission ~~may, by means of delegated acts, lay down~~ **shall be empowered to adopt delegated acts in accordance with Article 53 concerning additional transitional rules.**

Title IV

OPTIONAL QUALITY TERMS

Article 26

Objective

A scheme for optional quality terms is established in order to facilitate producers of agricultural product having value adding characteristics or attributes to communicate such characteristics or attributes within the internal market, and in particular to support and complement specific marketing standards.

Article 27

Existing optional quality terms

1. The optional quality terms covered by this scheme at the date of entry into force of this Regulation are listed in Annex II to this Regulation together with the acts laying down the terms in question and the conditions of use of those terms.
2. The optional quality terms referred to in paragraph 1 shall stay in force until amended or cancelled pursuant to Article 28.

Article 28

Reservation, amendment and cancellation

In order to take account of the expectations of consumers, developments in scientific and technical knowledge, the situation in the market, and developments in marketing standards and in international standards, the Commission ~~may, by means of delegated acts~~ **shall be empowered to adopt delegated acts in accordance with Article 53. Such acts may:**

- (a) reserve an additional optional quality term, laying down its conditions of use,
- (b) amend the conditions of use of an optional quality term, or
- (c) cancel an optional quality term.

Article 29

Additional optional quality terms

1. Additional optional quality terms shall meet the following criteria:

- (a) the term relates to a characteristic of a product, or a farming or processing attribute,
- (b) use of the term adds value to the product compared with product of a similar type, and
- (c) product has been placed on the market having the characteristic or attribute referred to in point (a) identified to consumers in several Member States.

The Commission shall take account of any relevant international standard.

2. Optional terms that describe technical product qualities for the purposes of implementing compulsory marketing standards and are not intended to inform consumers about those product qualities shall not be reserved under this scheme.
3. In order to take into account the specificities of certain sectors as well as consumer expectations, the Commission ~~may, by means of delegated acts~~ **shall be empowered to adopt delegated acts in accordance with Article 53, which** lay down detailed rules relating to the criteria referred to in paragraph 1.

Article 29a

Product of mountain farming

- 1. The term 'product of mountain farming' is established as an optional quality term and listed in Annex II. This term may only be used to describe products intended for human consumption listed in Annex I to the Treaty for which the raw materials come from mountain areas, and, for processed products, the processing of which, also takes place in mountain areas.**
- 2. Member States shall, within 1 year from the entry into force of this regulation, notify the Commission the mountain areas within their territory. The Commission shall, by means of an implementing act, adopt the list of mountain areas within the European Union based on the notifications of the Member States. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 52(2). For products of third countries, mountain areas shall include areas officially designated as such by the third country in question.**
- 3. In duly justified cases and in order to take into account of natural constraints affecting agricultural production in mountain areas, the Commission may, by means of implementing acts, lay down derogations from the conditions of use referred to in paragraph 1.**

Article 30

Restrictions on use

1. An optional quality term may only be used to describe products that conform to the corresponding conditions of use.
2. Member States shall take appropriate measures to ensure that product labelling does not give rise to confusion with optional quality terms.
3. The Commission may, by means of implementing acts, lay down rules for the use of optional quality terms. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).**

Article 31

Monitoring

~~Member States shall undertake checks, based on a risk analysis, to ensure compliance with the requirements of this Title and, in case of breaches, shall apply appropriate administrative penalties.~~

Title V

LOCAL FARMING AND DIRECT SALES

Article 31a

Objective

The objective of the local farming and direct sales scheme is to assist producers to market their products and communicate the value adding attributes of the product to consumers and thereby foster the development of the local economy.

Article 31b

Indication and symbol

1. A Union symbol and the indication 'product from my farm', designed to advertise and promote the local products marketed by direct sales, shall be established.
2. The indications listed in Annex III may be used throughout the European Union and in any language of the European Union for the labelling and advertising of products which satisfy the requirements set out or pursuant to the provisions of this Title.
3. In order to ensure appropriate consumer information, the Commission shall, by means of implementing acts, define the characteristics as to shape, colour, size and design of the related Union symbol as well as the rules for its reproduction and use. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).

Article 31c

Use of indication and symbol

1. Member States shall determine the conditions for use of the indication and the symbol referred to in Article 31b, taking into account the objectives of the scheme, existing farming practices and farm structures, and one or more of the following ways of marketing the product:
 - (a) sales to consumers by direct sale on the farm or in its vicinity, including in a farmers' market or other producers common selling points;
 - (b) sales by direct delivery to consumers of product of the farm or farms participating in the arrangement;

- 2. Member States may add other criteria, in particular regarding the size of the exploitation, the volume of production, or the traditional character of the product.**

Article 31d

Operation of the scheme

1. Member States shall:

- **lay down and manage the procedures for the identification of producers which are covered by the local farming and direct sales scheme;**
- **forward to the Commission a declaration that the national system meets the conditions laid down in this Title and in the provisions adopted for its implementation;**
- **make available on a public and accessible website the relevant national list of producers using the symbol or indication, according to a template provided by the Commission;**
- **undertake checks, based on a risk analysis, to ensure products conform to the requirements of this Title and, in case of breaches, apply appropriate administrative sanctions.**

2. The Commission shall set up a website providing links to the national websites referred to in the third indent of paragraph 1.

3. In order to ensure the accessibility and the harmonisation of the information on the internet, the Commission may, by means of implementing acts adopt further detailed rules. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).

Title ~~V~~VI

COMMON PROVISIONS

Chapter I

Official controls for protected designations of origin, protected geographical indications and traditional specialities guaranteed

Article 32

Scope

The provisions of this Chapter apply in respect of the quality schemes set out in Title II and Title III.

Article 33

Designation of competent authority

1. In accordance with Regulation (EC) No 882/2004, Member States shall designate the competent authority or authorities responsible for official controls carried out to verify compliance with the legal requirements related to the quality schemes established by this Regulation.

Procedures and requirements of Regulation (EC) No 882/2004 shall *mutatis mutandis* apply to the official controls carried out to verify compliance with the legal requirement related to the quality schemes for all products covered by Annex I to this Regulation.

2. The competent authorities referred to in paragraph 1 shall offer adequate guarantees of objectivity and impartiality, and shall have at their disposal the qualified staff and resources necessary to carry out their functions.
3. Official controls shall cover:
 - (a) verification of ~~conformity~~ **compliance** of a product with the corresponding product specification, and
 - (b) surveillance of the use of registered names to describe product placed on the market, in conformity with Article 13 for names registered under Title II and in conformity with Article 24 for names registered under Title III .

Article 34

Verification of compliance with product specification

1. In respect of protected designations of origin, protected geographical indications and traditional specialities guaranteed designating product originating within the Union, verification of compliance with the product specification, before placing the product on the market, shall be ensured by:
 - (a) one or more competent authorities referred to in Article 33 of this Regulation and/or
 - (b) one or more control bodies within the meaning of point (5) of Article 2 of Regulation (EC) No 882/2004 operating as a product certification body.

The costs of such verification of compliance with the specifications may be borne by the operators subject to those controls.

2. In respect of the designations of origin, geographical indications and traditional specialities guaranteed designating product originating in a third country, verification of compliance with the specifications, before placing the product on the market, shall be ensured by:
 - (a) one or more public authorities designated by the third country, and/or
 - (b) one or more product certification bodies.

3. Member States shall make public the name and address of the authorities and bodies referred to in paragraph 1, and update it periodically.

The Commission shall make public the name and address of the authorities and bodies referred to in paragraph 2 and update it periodically.

4. The Commission may ~~by means of implementing acts without the assistance of the Committee referred to in Article 54,~~ define means by which the name and address of product certification bodies referred to in paragraphs 1 and 2 shall be made public.

Article 35

Surveillance of the use of the name in the market place

Member States shall inform the Commission on the names and addresses of the competent authorities referred to in Article 33. The Commission shall make public the name and address of those authorities.

Article 36

Delegation to control bodies

1. Competent authorities may delegate specific tasks related to official controls of the quality schemes to one or more control bodies in conformity with Article 5 of Regulation (EC) No 882/2004.
2. Such control bodies shall be accredited in accordance with European Standard EN 45011 or ISO/IEC Guide 65 (General requirements for bodies operating product certification systems).
3. Accreditation referred to in paragraph 2 may only be performed by:
 - (a) a national accreditation body in the Union in accordance with the provisions of Regulation (EC) No 765/2008, or
 - (b) an accreditation body outside the Union that is a signatory of a multilateral recognition arrangement under the auspices of the International Accreditation Forum.

Article 37

Planning and reporting of control activities

1. Member States shall ensure that the control of obligations under this Chapter are specifically included in a separate section within the multi-annual national control plans in accordance with Articles 41, 42 and 43 of Regulation (EC) No 882/2004.
2. The annual reports concerning the control of obligations established by this Regulation shall include a separate section comprising the information laid down in Article 44 of Regulation (EC) No 882/2004.

Chapter II

Savings for certain prior uses

Article 38

Generic terms

1. Without prejudice to Article 13, this Regulation shall not affect the use of terms that are generic in the Union, even if the generic term is part of a name that is protected under a quality scheme.

- 32.** To establish whether or not a term has become generic, account shall be taken of all factors, in particular:
- (a) the existing situation in the Member States and in areas of consumption;
 - (b) the relevant national or Union legal acts.
- 43.** In order to fully protect the rights of interested parties, the Commission **shall be empowered to adopt delegated acts in accordance with Article 53, concerning** ~~may, by means of delegated acts, lay down~~ additional rules for determining the generic status of names or terms referred to in paragraph 1.

Article 39

Plant varieties and animal breeds

1. Where a name or term, protected or reserved under a quality scheme described in Title II **or** Title III ~~or Title IV~~ contains or comprises the name of a plant variety or of an animal breed, this Regulation shall not prevent the placing on the market of product the labelling of which includes the said name of a plant variety or animal breed, provided that **the following conditions are met:**
 - (a) the product in question comprises or is derived from the variety or breed indicated;
 - (b) consumers are not misled,
 - (c) the usage of the name of the variety or breed name constitutes fair competition,
 - (d) the usage does not exploit the reputation of the protected term, and
 - (e) in the case of the quality scheme described in Title II, production and marketing of product of the variety or breed under the said name had evaded its area of origin prior to the date of application for registration of the geographical indication.
2. In order to further clarify the extent of rights and freedoms of food business operators to use the name of a plant variety or of an animal breed referred to in paragraph 1, the Commission **shall be empowered to adopt delegated acts in accordance with Article 53, concerning** ~~may, by means of delegated acts, lay down~~ rules for determining the use of such names.

Article 40

Relation to intellectual property

The quality schemes described in Titles III and IV shall apply without prejudice to Union rules or those of Member States governing intellectual property and in particular those concerning designations of origin and geographical indications, and trade marks.

Chapter III

Quality scheme indications and symbols and role of producers

Article 41

Protection of indications and symbols

1. Indications, abbreviations and symbols referring to the quality schemes may only be used in the labelling of product produced in conformity with the rules of the quality scheme to which they apply. This applies in particular to the following indications, abbreviations and symbols:
 - (a) ‘protected designation of origin’, ‘protected geographical indication’, ‘geographical indication’, ‘PDO’, ‘PGI’, and the associated symbols, as provided for in Title II;
 - (b) ‘traditional speciality guaranteed’, ‘TSG’, and the associated symbol, as provided for in Title III.
2. In accordance with Article 5 of Regulation (EC) No 1290/2005, the European Agricultural Fund for Rural Development (EAFRD) may finance on a centralised basis on the initiative of the Commission or on its behalf, administrative support concerning the development, preparatory work, monitoring, administrative and legal support, legal defence, registration fees, renewal fees, mark watching fees, litigation fees and any other related measure required to protect the use of the indications, abbreviations and symbols referring to the quality schemes from misuse, imitation, evocation or any other practice liable to mislead the consumer, within the Union and in third countries.
3. The Commission shall adopt, by means of implementing acts, rules for the uniform protection of the indications, abbreviations and symbols referred to in paragraph 1. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).**

Article 42

Role of groups

1. Member States shall encourage the formation and functioning of groups on their territories by administrative means. Without prejudice to the definition of groups in Article 3(2) Member States shall encourage such groups to function as a legal entity under the respective legal provisions of the Member State.

2. Without prejudice to specific provisions on producer organisations and inter-branch organisations as laid down in Regulation (EC) No 1234/2007, a group is entitled to:

- (a) contribute to ensuring that the quality of their products is guaranteed on the market by monitoring the use of the name in trade and, if necessary, informing competent authorities as referred to in Article 33, within the framework of Article 13(3);
- (b) develop information and promotion activities aiming at communicating the value adding attributes of the product to consumers;
- (c) develop activities related to ensuring compliance of a product with its specification;
- (d) take action to improve the performance of the scheme, including developing economic expertise, carrying out economic analyses, disseminating economic information on the scheme and providing advice to producers.

3. The activities of groups may not result in limiting the free movement of goods, especially by limiting the production of their members, by setting quotas or prices or by dividing the market. Lack of membership for an operator in a group may not have negative effects on its commercial activities.

4. If not all operators working with the same product are members in a group or if there is more than one such group in a Member State, the Member State shall carry out consultations between these parties to facilitate their functioning.

Article 43

Right to use the schemes

1. Member States shall ensure that any operator complying with the rules of Title II and III is entitled to be covered by a control system, as referred to in Article 34.
2. Operators preparing and storing a traditional speciality, protected designation of origin or protected geographical indication or who places such traditional speciality guaranteed, protected designation of origin and protected geographical indication on the market shall also be subject to the system of controls as referred to in Chapter I of this Title.
3. Member States shall ensure that operators willing to adhere to the rules of a quality scheme set out in Titles III and IV are able to do so and do not face obstacles to participation that are discriminatory or otherwise not objectively founded.

Article 44

Fees

Without prejudice to Regulation (EC) No 882/2004 and in particular the provisions of Chapter VI of Title II thereof, Member States may charge a fee to cover their costs of managing the quality schemes, including those incurred in processing applications, statements of opposition, applications for amendments and requests for cancellations provided for in this Regulation.

Chapter IV

Application and registration processes for designations of origin, geographical indications, and traditional specialities guaranteed

Article 45

Scope of application processes

The provisions of this Chapter apply in respect of the quality schemes set out in Title II and Title III.

Article 46

Application for registration of names

1. Applications for registration of names under the quality schemes referred to in Article 45 may only be submitted by groups **who work with the products whose name is to be registered.**

Under exceptional conditions, a natural or legal person may be treated as a group.

In order to avoid any disproportionate requirements, the Commission **shall be empowered to adopt delegated acts in accordance with Article 53, concerning the definition of** ~~may, by means of delegated acts, define~~ the exceptional conditions referred to in the second subparagraph.

2. Where the application under the scheme set out in Title II relates to a geographical area in a Member State, or an application under the scheme set out in Title III is prepared by a group established in a Member State, the application shall be addressed to the authorities of that Member State.

The Member State shall scrutinize the application by appropriate means to check that it is justified and meets the conditions of the respective scheme.

3. As part of the scrutiny referred to in the second subparagraph of paragraph 2, the Member State shall initiate a national opposition procedure ensuring adequate publication of the application and providing for a reasonable period within which any natural or legal person having a legitimate interest and established or resident on its territory may lodge an opposition to the application.

The Member State shall consider the admissibility of oppositions received under the scheme set out in Title II in the light of the criteria referred to in Article 10(1), or the admissibility of oppositions received under the scheme set out in Title III in the light of the criteria referred to in Article 21(1).

4. If, after assessment of any opposition received, the Member State considers that the requirements of this Regulation are met, it may take a favourable decision and lodge an application dossier with the Commission.

The Member State shall ensure that its favourable decision is made public and that any natural or legal person having a legitimate interest has means of appeal.

The Member State shall ensure that the version of the product specification on which its favourable decision is based, is published, and shall provide electronic access to the product specification.

5. Where the application under the scheme set out in Title II relates to a geographical area in a third country, or an application under the scheme set out in Title III is prepared by a group established in a third country, the application shall be lodged with the Commission, either directly or via the authorities of the third country concerned.
6. The documents referred to in this Article sent to the Commission shall be in one of the official languages of the Union.
7. In order to facilitate the application process and better clarify the form and content of applications, including applications concerning more than one national territory, the Commission **shall be empowered to adopt delegated acts in accordance with Article 53, which** ~~may, by means of delegated acts,~~ lay down the necessary rules.

Article 47

Scrutiny by the Commission and publication for opposition

1. The Commission shall scrutinise by appropriate means an application received pursuant to Article 46, to check that it is justified and meets the conditions of the respective scheme. This scrutiny should not exceed a period of six months.

The Commission shall, **at least each month**, ~~by means of implementing acts without the assistance of the Committee referred to in Article 54,~~ make public the list of names for which registration applications have been submitted to it, as well as their date of submission to the Commission.

2. Where, based on the scrutiny carried out pursuant to the first subparagraph of paragraph 1, the Commission considers that the conditions laid down in this Regulation are met, it shall ~~by means of implementing acts without the assistance of the Committee referred to in Article 54,~~ publish in the *Official Journal of the European Union*:
- (a) for applications under the scheme set out in Title II, the single document and the reference to the publication of the product specification;
 - (b) for applications under the scheme set out in Title III, the specification.

Article 48

Opposition procedure

1. Within ~~two~~ **three** months from the date of publication in the *Official Journal of the European Union*, a ~~statement~~ **notice** of opposition may be lodged to the Commission by the authorities of a Member State or of a third country, or a natural or legal person having a legitimate interest and established in a third country.

Any natural or legal person having a legitimate interest, established or resident in a Member State other than that from which the application was submitted, may lodge a ~~statement~~ **notice** of opposition to the Member State in which it is established within a time limit permitting an opposition in accordance with paragraph 1.

A notice of opposition shall contain a declaration that the application might infringe the conditions laid down in this Regulation. A notice of opposition that does not contain this declaration is void.

If a notice of opposition was lodged to the Commission, it has to be followed within three months by a reasoned statement of opposition. The Commission shall forward the notice of opposition to the authority or body that lodged the application without delay.

2. The Commission shall check the admissibility of **reasoned** statements of oppositions.
3. Where **a reasoned** statement of opposition is admissible, the Commission shall invite the authority or person that lodged the opposition and the authority or body that lodged the application to engage in appropriate consultations for a reasonable period that shall not exceed three months.

At any time during these three months, the Commission may, on the request of the participants extend the deadline of the consultations by a maximum of three months if the Commission deems that extending the deadline contributes to reaching an agreement or if one of the participants is of a third country.

4. Where following the appropriate consultations referred to in paragraph 3, the details published in accordance with Article 47(2) have been substantially amended, the Commission shall repeat the scrutiny referred to in Article 47(1).

5. The **notice of opposition, the reasoned** statement of opposition and the related documents sent to the Commission in accordance with paragraphs 1 to 4 shall be in one of the official languages of the Union.
6. In order to establish clear procedures and deadlines for opposition, the Commission shall **be empowered to adopt delegated acts in accordance with Article 53, concerning** ~~by means of delegated acts, lay down~~ rules for the opposition process.

Article 49

Decision on registration

1. Where, on the basis of the information available to the Commission, following the scrutiny carried out pursuant to the first subparagraph of Article 47(1), the Commission considers that the conditions for registration are not met, it shall ~~by means of implementing acts without the assistance of the Committee referred to in Article 54,~~ decide to reject the application.
2. If the Commission receives no **notices of opposition or no admissible reasoned statements of** opposition under Article 48, it shall ~~by means of implementing acts without the assistance of the Committee referred to in Article 54,~~ register the name.
3. If the Commission receives an **admissible reasoned statement of** opposition, it shall, following the appropriate consultations referred to in Article 48(3), and taking into account the results of those consultations, either:
 - (a) in case an agreement has been reached, register the name ~~by means of implementing acts without the assistance of the Committee referred to in Article 54,~~ and, if need be, amend the information published pursuant to Article 47(2) provided such amendments are not substantial or,
 - (b) in case an agreement has not been reached, take a decision by means of implementing acts.
4. Acts of registration and decisions on rejection shall be published in the *Official Journal of the European Union*.

Article 50

Amendment to a product specification

1. A group **or if no functioning groups are present, the authorities of a Member State or of a third country,** having a legitimate interest may apply for approval of an amendment to a product specification.

Applications shall describe and give reasons for the amendments requested.

2. Where the amendment involves one or more amendments to the specification that are not minor, the amendment application shall follow the procedure laid down in Articles 46, 47, 48 and 49.

However, if the proposed amendments are minor, the Commission shall ~~by means of implementing acts without the assistance of the Committee referred to in Article 54,~~ approve or reject the application. In case of approval, it shall publish in the *Official Journal of the European Union* the elements referred to in Article 46(2).

An amendment may not be considered minor if it concerns a change to the registered name or if it increases restrictions on the operation of the single market.

3. In order to facilitate the administrative process of an amendment application, the Commission **shall be empowered to adopt delegated acts in accordance with Article 53, concerning** ~~shall, by means of delegated acts, lay down~~ the definition and scope of minor amendments, as well as the form and content of an amendment application.

Article 51

Cancellation

1. The Commission may, on its own initiative or on request of any natural or legal person having a legitimate interest, by means of implementing acts, cancel the registration of a protected designation of origin or of a protected geographical indication or of a traditional speciality guaranteed in the following cases:
 - (a) compliance with the conditions of the specification is not ensured,
 - (b) no product is placed on the market under the traditional speciality guaranteed, the protected designation of origin or the protected geographical indication for at least five years.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).

2. The Commission may, at the request of the producers of product marketed under the registered name, cancel the corresponding registration.
23. In order to define clear procedures and to ensure that all parties have the opportunity to defend their rights and legitimate interests, the Commission shall **be empowered to adopt delegated acts in accordance with Article 53, concerning** ~~by means of delegated acts, lay down~~ rules regarding the cancellation process.

~~Title VII~~

PROCEDURAL AND FINAL PROVISIONS

Chapter I

Procedural rules

Article 52

~~Commission powers~~

~~Where powers are conferred upon the Commission, it shall act in accordance with the procedure referred to in Article 53 in the case of delegated acts, and in accordance with the procedure referred to in Article 54 in the case of implementing acts, save where explicitly provided otherwise in this Regulation.~~

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No .../2011. (Regulation laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (PE-CONS 64/10))

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No .../2011 shall apply.

Article 53

~~Delegated acts~~

~~1. The powers to adopt the delegated acts referred to in this Regulation shall be conferred on the Commission for an indeterminate period of time.~~

~~As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.~~

~~2. The delegation of powers referred to in paragraph 1 may be revoked at any time by the European Parliament or by the Council.~~

~~The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall inform the other legislator and the Commission, at least one month before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.~~

~~The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.~~

- ~~3. The European Parliament and the Council may object to a delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by two months.~~

~~If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the *Official Journal of the European Union* and shall enter into force at the date stated therein.~~

~~The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.~~

~~If the European Parliament or the Council raises objections in respect of the delegated act, it shall not enter into force. The institution which has raised objections to the delegated act shall state the reasons therefore.~~

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.**

2. The delegation of power referred to in Articles [...] shall be conferred on the Commission for a period of five years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of powers referred to in Articles [...] may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council

5. A delegated act adopted pursuant to Articles [...] shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Implementing acts

~~[Where implementing acts are adopted pursuant to this Regulation, the Commission shall be assisted by the Agricultural Product Quality Policy Committee and the procedure provided for in Article [5] of Regulation (EU) No [xxxx/yyyy] (to be completed following the adoption of the regulation on control mechanisms, as referred to in Article 291(2) of the TFEU, currently the subject of discussion by the European Parliament and the Council) shall apply.]~~

Chapter II

Repeal and final rules

Article ~~54~~⁵⁵

Repeal

1. Regulations (EC) No 509/2006 and (EC) No 510/2006 are hereby repealed.

However, ~~Article 1(1)~~ and Article 13 of Regulation (EC) No 509/2006 shall continue to apply in respect of applications concerning products falling outside the scope of Title III, received by the Commission prior to the date of entry into force of this Regulation.

2. References to the repealed Regulations shall be construed as references to this Regulation and be read in accordance with the correlation table in Annex III to this Regulation.

Article ~~55~~⁵⁶

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

For the European Parliament
The President
[...]

For the Council
The President
[...]

ANNEX I

Products referred to in Article 2(1)

I. DESIGNATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS

- beer,
- chocolate and derived products,
- bread, pastry, cakes, confectionery, biscuits and other baker's wares,
- beverages made from plant extracts,
- pasta,
- salt,
- natural gums and resins,
- mustard paste,
- hay,
- essential oils,
- cork,
- cochineal,
- flowers and ornamental plants,
- cotton,
- wool,
- wicker,
- scutched flax.

II. TRADITIONAL SPECIALITIES GUARANTEED

- prepared meals,
- beer,
- chocolate and derived products,
- bread, pastry, cakes, confectionery, biscuits and other baker's wares,
- beverages made from plant extracts,
- pasta.

ANNEX II

Optional quality terms

Product category (reference to Combined Nomenclature classification)	Optional quality term	Act defining the term and conditions of use		
poultry meat (CN 0207, CN 0210)	fed with	Regulation (EC) No 543/2008 Article 11		
	extensive indoor / barn-reared			
	free range			
	traditional free range			
	free range – total freedom			
	age at slaughter			
	length of fattening period			
eggs (CN 0407)	fresh	Regulation (EC) No 589/2008, Article 12		
	extra <i>or</i> extra fresh	Regulation (EC) No 589/2008, Article 14		
	indication on how laying hens are fed	Regulation (EC) No 589/2008, Article 15		
honey (CN 0409)	floral or vegetable origin	Directive 2001/110/EC, Article 2		
	regional origin			
	territorial origin			
	topographical origin			
	specific quality criteria			
olive oil (CN 1509)	first cold pressing	Regulation (EC) No 1019/2002, Article 5		
	cold extraction			
	acidity			
	pungent			
	fruity: ripe or green			
	bitter			
	intense			
	medium			
	light			
	well balanced			
	mild oil			
	milk and milk products (CN 04)		traditional butter	Regulation (EC) No 1234/2007, Article 115 & Annex XV
			spreadable fats	
(CN 0405 and ex 2106, CN ex 1517, CN ex 1517 and ex 2106)	reduced fat			

ANNEX III

Indications referred to in Article 31b

BG: ...

ES: Producto de mi granja

CS: ...

DA: ...

DE: Erzeugnis/Produkt von meinem (Bauern-)Hof

ET: ...

EL: προϊόν του (αγρο)κτήματός μου

EN: product from my farm

FR: produit de ma ferme

GA: ...

IT: prodotto della mia fattoria

LV: ...

LT: produktas iš mano ūkio

LU: ...

HU: termelői termék

MT: ...

NL: ...

PL: produkt (z) mojego gospodarstwa / produkt (z) mojej farmy

PT: ...

RO: produs de la ferma mea

SK: ...

SL: ...

FI: oman tilan tuote

SV: ...