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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on agricultural product quality schemes

SEC(2010) 1524 final
SEC(2010) 1525 final

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Quality Package consists of a set of proposals designed to put in place a coherent agricultural product quality policy aimed at assisting farmers to better communicate the qualities, characteristics and attributes of agricultural product, and at ensuring appropriate consumer information. The Quality Package includes:

- a proposal for a Regulation of the European Parliament and of the Council on agricultural product quality schemes [COM(2010) XXXX];
- a proposal to modify Regulation (EC) No 1234/2007 (the single Common Market Organisation) concerning marketing standards for agricultural products [COM(2010) XXXX];
- guidelines setting out best practice for the development and operation of certification schemes relating to agricultural products and foodstuffs [C(2010) XXXX], and
- guidelines on the labelling of foodstuffs using Protected Designation of Origin (PDO) and Protected Geographical Indications (PGI) as ingredients [C(2010) XXXX].

1.1. Grounds for and objectives of the proposal

Farmers and producers of agricultural products face competitive pressure resulting from policy reform, globalisation, the concentration of bargaining power in the retail sector, and the state of the economy. At the same time, consumers increasingly look for authentic products produced using specific and traditional methods. In meeting this demand, the diversity and quality of European Union agricultural production should be an important strength and source of competitive advantage for Union farmers.

However, in order for consumers and buyers to be properly informed about the characteristics and farming attributes of agricultural product, they need to receive accurate and trustworthy labelling information. Providing producers with the right tools to communicate product characteristics and farming attributes to buyers and consumers, and to protect them against unfair trading practices, is at the heart of European Union agricultural product quality policy.

Most tools already exist at European Union level. Analysis and discussion with stakeholders has shown that they may be improved, simplified and made more coherent. The Quality Package aims to improve the Union legislation in the field of quality, as well as in the operation of national and private certification schemes, in order to make them simpler, more transparent and easier to understand, adaptable to innovation, and less burdensome for producers and administrations.

1.2. General context

Since the 1990s, Union agricultural product quality policy has been closely identified with three Union schemes, namely for protected designations of origin and protected geographical indications, for organic farming, and for traditional specialities guaranteed. In addition, Union marketing standards have provided a legislative framework for fair competition and smooth functioning of the market since the inception of the common agricultural policy. These Union standards and schemes have been joined in the last decade by an upsurge in the number of certification schemes in the private sector – seeking to guarantee to consumers value-adding characteristics and attributes, as well as respect for baseline standards through quality assurance certification.

In 2006, in the context of a recast of the scheme for protected designations of origin and protected geographical indications, the Commission committed to undertake a future policy review of the operation of the Regulation and its future development¹.

In 2007 a major conference was held bringing together all types of quality schemes: ‘Food quality certification—adding value to farm produce’. The Conference led to the 2008 Green Paper on agricultural product quality², which elicited over 560 detailed stakeholder responses and provided the input for the Communication on agricultural product quality policy³ in 2009. This set out the following strategic orientations:

- improve communication between farmers, buyers and consumers about agricultural product qualities;
- increase the coherence of European Union agricultural product quality policy instruments; and
- reduce complexity to make it easier for farmers, producers and consumers to use and understand the various schemes and labelling terms.

1.3. Existing provisions on this area

European Union legislation provides for protection of designations of origin and geographical indications system in respect of agricultural products and foodstuffs. A harmonised regulatory system in the European Union was created in 1992 to register valuable names of agricultural products and foodstuffs produced according to a specification in a given geographical area by producers with recognised know-how⁴.

¹ Addendum to draft minutes; 2720th meeting of the Council of the European Union (Agriculture and Fisheries), 20.3.2006 (7702/06 ADD1).

² COM(2008) 641, 15.10.2008

³ COM(2009) 234, 28.05.2009

⁴ Regulation (EC) No 510/2006 of the Council on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ L 93, 31.3.2006, p. 12). which repealed and replaced Regulation (EEC) No 2081/92. Schemes for geographical indications are also established in the wine sector, and for spirit drinks and for aromatized wines.

Also in 1992, the scheme for traditional specialities guaranteed set up a register of names of food specialties having a traditional character, stemming either from their traditional composition or traditional production methods used⁵.

As regards marketing standards, there is an extensive body of legislation that has developed mostly on a sectoral basis, in the form of regulations and directives adopted both at the level of Council and the Commission.

In addition, optional quality terms, regulated within the marketing standards, ensure that terms describing value adding characteristics, or farming or processing attributes are not misused in the marketplace and can be relied on by consumers in identifying different qualities of product.

1.4. Consistency with other policies

Agricultural product quality policy forms part of the common agricultural policy. The recent Communication⁶ from the Commission on policy in the period post-2013 has identified several key challenges including maintaining the diversity of agricultural activities in rural areas and enhancing competitiveness, to which agricultural product quality policy will contribute. The policy also is in line with the priorities for the European Union set out in the 2020 Communication⁷, in particular the aims of promoting a more competitive economy, as quality policy is one of the flagships of EU agriculture's competitiveness.

This proposal is linked to and consistent with policies on consumer protection and information, single market and competition, as well as external trade policy.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

2.1. Consultations

Stakeholders have been widely consulted. The main avenues for consultation were the Advisory Group on the quality of agricultural production, and the Green Paper consultation⁸, which concluded with a high-level conference in March 2009, organised by the Czech Presidency. The Council of Ministers adopted conclusions⁹ on the Communication in its meeting in June 2009. The European Parliament adopted the resolution, 'Agricultural product quality policy: what strategy to follow?'¹⁰ in March 2010. Opinions were adopted by the European Economic and

⁵ Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialities guaranteed (OJ L 93 31.3.2006 p.1-11)

⁶ COM(2010)672 final, 18.11.2010

⁷ COM(2010) 2020, 3.3.2010

⁸ From 15 October to 31 December 2008

⁹ <http://register.consilium.europa.eu/pdf/en/09/st10/st10722.en09.pdf>

¹⁰ <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0088&language=EN&ring=A7-2010-0029>

Social Committee in January 2010¹¹ and the Committee of the Regions in February 2010¹².

2.2. Main outcome of the consultations

Overall, stakeholders welcomed the orientations set out in the 2009 Communication. The main views expressed were the following:

- For designations of origin and geographical indications, simplification of the scheme by merging the two instruments (the ‘protected designation of origin’ and the ‘protected geographical indication’) was opposed. Merger of the existing systems (for wine, spirits, aromatised wines and agricultural products and foodstuffs) was viewed positively by most stakeholders, except for those in the wine and spirits sectors. The Commission was encouraged to further simplify, clarify and streamline the systems, and to enhance international recognition of designations of origin and geographical indications.
- For traditional specialities guaranteed, almost unanimous support was expressed by stakeholders for continuation of the TSG scheme, underlining its potential and importance for producers of traditional product that does not qualify under the geographical indications scheme. Some stakeholders called for the scheme to be simplified, in particular by discontinuing the possibility to register names without reserving it, and streamlined. Stakeholders representing producers of product covered by designations of origin and geographical indications suggested the scheme could provide an outlet for such product particularly where they are used in recipes.
- For marketing standards, in general stakeholders welcomed the simplification of marketing standards, place of farming labelling, and further development of optional quality terms.
- the need to address the needs of small-scale producers for whom the Union designations of origin and geographical indication and traditional specialities guaranteed schemes are too burdensome was raised.

2.3. Impact assessment

Following the 2009 Communication and the main responses to it, two impact assessments were prepared with a view to exploring the options identified in the Communication. These covered designations of origin and geographical indications, and traditional specialities guaranteed.

Concerning **geographical indications**, the analysis showed strong justification for a Union-level geographical indications scheme and discarded alternatives to a European Union scheme for reasons of low efficiency and effectiveness (including co-regulation and self-regulation by the sector, no action at European Union level,

¹¹ http://eescopinions.eesc.europa.eu/EESCOpinionDocument.aspx?identifier=ces\nat\nat448\ces105-2010_ac.doc&language=EN

¹² http://coropinions.cor.europa.eu/CORopinionDocument.aspx?identifier=cdr\deve-iv\dossiers\deve-iv-048\cdr315-2009_fin_ac.doc&language=EN

protection through the international Lisbon Agreement¹³, replacement by a notification system for national geographical indications, and protection through the existing Community collective trade mark). The impact assessment identified considerable ground for reducing complexity and facilitating enforcement by merging the agricultural product and foodstuffs scheme with those in the alcoholic beverages sectors, while assuring the specificities of each system. However, the impact assessment acknowledged the opposition of certain stakeholders to this option.

Analysis of price data showed that producer returns for protected designations of origin (PDOs) and protected geographical indications (PGIs) are higher than for non-designated product and that the PDO label commands a higher price than the PGI label. The overall value of agricultural products and foodstuffs sold under PDOs and PGIs is 14.2 € billion (1997) at wholesale prices, and estimated at 21 € billion at consumer prices. Concerning trade in the internal market, 18.4% of PDO and PGI products are marketed outside their Member State of production.

The impact assessment found that merging the instruments for protected designation of origin (PDO) and protected geographical indication (PGI) would diminish the added-value benefits of the PDO identification. Concerning environmental impacts, studies show that some PDO and PGI products come from low intensity farming systems associated with high environmental value. These PDOs and PGIs provide an economic underpinning to the environmental public goods. Under the options retained for analysis producers can include environmental conditions in appropriate cases.

Concerning **traditional specialities guaranteed**, three options were analysed: introducing the term 'traditional' as optional quality term and abolishing the current scheme; no EU action; and simplifying the current scheme (allowing only registration with reservation of the name). The impact assessment showed that eliminating the TSG scheme would lead for protected names to loss of the economic and social benefits of EU-wide protection and was found to be unacceptable to stakeholders and to the EU legislator. In addition, the option to protect names throughout the single market was identified as a function that can only be undertaken effectively at Union level. The current low uptake of the traditional speciality guaranteed (TSG) scheme meant that data was limited. Case studies and surveys show positive economic and social impacts, including the preservation of traditional forms of production, access to derogations from hygiene rules for traditional methods, and value adding economic benefits of TSG registration.

Concerning the non-protected names however, little economic or social impact was shown for the abolition option as this function could be taken up by national or regional schemes and is already successfully achieved by several national schemes; the case for Union action in this regard was therefore difficult to justify on grounds of subsidiarity.

¹³ Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1958)

In social terms, the designations of PDO, PGI and TSG were found to contribute to the continuation of traditional forms of production to the benefit of both producers and consumers.

However, both the impact assessments for geographical indications and for traditional specialities guaranteed highlighted the widespread failure of these schemes to attract participation of very **small-scale producers**, notwithstanding that small-scale producers are often associated with artisanal product, traditional methods and local marketing, the European Union schemes are seen as burdensome in terms of application, necessitate costly controls, and require adherence to a specification. Therefore, further study and analysis will be carried out in order to assess the problems faced by small-scale producers in participating in Union quality schemes. On the basis of the results of this analysis, the Commission may propose appropriate follow-up.

Concerning **marketing standards**, in addition to the impact assessment work already done in the context of the 2009 Communication, further impact assessment work will be associated as appropriate to the proposals on the specific standards in the context of delegated powers for which a legal framework has been provided within the alignment of Regulation 1234/2007 to the Treaty of Lisbon.

The texts of the impact assessments can be found on the following website:

http://ec.europa.eu/agriculture/quality/policy/backdocuments-links/index_en.htm

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Summary of the proposed action

The single Regulation for agricultural product quality schemes presents three complementary schemes (designations of origin and geographical indications; traditional specialities guaranteed; optional quality terms) in a single regulatory structure, overseen by a single quality policy committee. A separate Regulation covers the Marketing Standards.

3.1.1. Designations of origin and geographical indications, excluding wines, aromatised wines and spirits.

The proposal maintains and reinforces the scheme for agricultural products and foodstuffs, but does not bring together the geographical indications schemes for wines, for spirits, or for aromatized wines. In the light of relatively recent reforms of the wine and spirits legislation, at this stage, the schemes should remain distinct. This issue can be reconsidered at a later date. In the meantime, the rules for the scheme for agricultural products and foodstuffs will be converged, where appropriate, to those for wines.

The main elements designed to strengthen and simplify the scheme are the following:

- recognition of the roles and responsibilities of groups¹⁴ applying for registration of names with regard to monitoring, promotion and communication;
- the reinforcement and clarification of the level of protection of registered names and the common Union symbols;
- the procedure to register names is shortened;
- the respective roles of Member States and groups applying for registration have been clarified with regard to the enforcement of protection of the registered names throughout the European Union, and
- the definitions of designations of origin and geographical indications are more closely aligned to international usage.

The proposal streamlines the current process of registration of designations of origin and geographical indications by shortening time delays. In addition, certain legal issues are clarified and terminology aligned with the recently adopted legislation on geographical indications for wine. Minimum common rules on official controls to ensure product follows the specification and to ensure correct labelling in the marketplace are also laid down. The scope of the Regulation is maintained (agricultural products for human consumption and certain other products), while dark chocolate is added.

3.1.2. *Traditional specialities guaranteed*

The proposal maintains the scheme for reservation of names of traditional specialities guaranteed across the European Union, but discontinues the option of registering names without reservation. The function of giving publicity, but not protection, to traditional products is best accomplished at national (or regional) level, and European Union action cannot be justified. The renewed European Union scheme for traditional specialities guaranteed is simplified (registration process streamlined by shortening delays, procedures aligned on PDO-PGI ones) and targeted in several respects: the criterion of tradition is extended to 50 years (from 25 years) to reinforce the credibility of the scheme; the scheme is restricted to prepared meals and processed product; and definitions and procedural requirements are substantially simplified to improve understanding of the scheme.

3.1.3. *Optional quality terms*

Concerning the optional quality terms, which have in common with the quality schemes that they are optional and assist farmers to identify value-adding characteristics and attributes of product in the marketplace, it is proposed to bring these into the present regulation. The optional quality terms are not amended in content, but adapted to the legislative framework of the Treaty on the Functioning of the European Union.

¹⁴ any association, irrespective of its legal form or composition, of producers or processors working with the same product

Further study and analysis will be carried out in order to assess the problems faced by producers of mountain products in labelling their products on the market. On the basis of the results of this analysis, the Commission may propose appropriate follow-up.

3.1.4. *Marketing standards*

Following the Communication from the Commission on agricultural product quality policy and subsequent debates, it is clear that marketing standards can contribute to improving the economic conditions for the production and marketing as well as the quality of such products. A minimum requirement of "sound, fair and marketable" already exists in market management measures. Extending these minimum requirements to those products not covered by specific standards can be useful for reassuring the consumers about the basic quality of the products they buy.

The proposal also takes into account the necessity of the alignment to the Treaty on the Functioning of the European Union, and thus the powers to adopt and develop standards in future will be delegated to the Commission.

Under this new framework, a legal basis for compulsory labelling of place of farming will be introduced for all sectors. This allows the Commission, following appropriate impact assessments and on a case by case basis, to adopt delegated acts concerning possible mandatory labelling on place of farming at the appropriate geographical level in order to satisfy the consumers' demands for transparency and information. One of the first sectors to be examined will be the dairy sector. At the same time the Commission envisages that for the future the mandatory indication of origin, for those sectors in which it already exists, will be maintained.

3.2. **Legal basis (if necessary, justify choice of legal basis)**

Treaty on the Functioning of the European Union, Article 43(2), and for Title II also Article 118(1).

3.3. **Subsidiarity and proportionality principles**

Concerning **subsidiarity**, the schemes for *designations of origin and geographical indications*, *traditional specialities guaranteed* and *optional quality terms*, provide for the protection or reservation of value-adding names and terms throughout the territory of the European Union. This has the effect that non-qualifying producers are constrained from using the terms. If protected by Member States individually, the terms and names would enjoy different levels of protection in each Member State, which could mislead consumers, impede intra-Union trade, and make way for unequal competition in marketing products identified by quality names and terms. The determination of such rights across the European Union can only be done effectively and efficiently at Union level. 18% of the value of products sold under the PDO and PGI scheme are traded outside their Member State of origin and rely on the intellectual property protection afforded by EU-wide scheme. For the protected names under the TSG scheme, sales in the internal market are significant for the producers concerned. Optional quality terms also apply to significant intra-Union trade flows and divergent definitions and meanings would impede the operation of the market.

The schemes for *designations of origin and geographical indications*, and *traditional specialities guaranteed* rely on Union symbols designed to convey information about the nature of each quality scheme. In order to ensure recognition of the symbols by consumers across the European Union, and thereby facilitate understanding of the scheme and trade in quality products across borders, the symbols need to be established at Union level.

The processing and analysis of applications for *designations of origin and geographical indications* and *traditional specialities guaranteed* is a task that need not be performed at European Union level, except in so far as certain elements are concerned. These include assessing eligibility for the protection of names across the European Union, upholding the rights of prior users of the names (especially those outside the Member State of application), and checking applications for manifest errors. The primary detailed analysis of an application however, can be more efficiently and effectively undertaken at national level.

The operation of labelling schemes designed to identify product having certain qualities, but which do not effect the protection or reservation of names across the European Union, can be most effectively done by national authorities. For this reason the proposed revision of the *traditional specialities guaranteed* scheme discontinues the option to register names that are not protected.

The task of controls of all schemes is, in line with Regulation (EC) No 882/2004 on official feed and food controls, to be undertaken in the first place under the responsibility of national competent authorities. Supervision of Member State control activities needs to be undertaken at Union level in order to maintain credibility in the food law schemes across the European Union, in line with the principles laid down in that regulation.

Concerning **proportionality**, the schemes for *designations of origin and geographical indications* and for *traditional specialities guaranteed* entail adherence to a strict product specification and effective controls on production that can be burdensome for producers. However, this is necessary and proportionate to underpin the creditability of the scheme and provide the consumer with an effective guarantee of compliance. Without that guarantee, the consumer cannot be expected to pay a fair price for the quality products offered. By contrast the schemes for *optional quality terms* rely primarily on producers' own declarations of conformity, backed up by normal agricultural controls by Member States, based on risk assessment. As the conditions of participation in these schemes are lighter than in the case of the designations of origin and geographical indications and traditional specialities guaranteed, the less-burdensome system of participation and controls is proportionate.

The quality schemes are an essential part of the strategy of development of the common agricultural policy to enable and encourage European Union farmers to develop their expertise in marketing high quality product that has value adding characteristics and production attributes. As such it is vital that all farmers have access to the schemes. Therefore, while farmers must make a considered choice to take on the burdens and commitment to market quality product under the schemes, equally the policy benefits for the agricultural sector and for consumers can only be achieved if every farmer who wishes, has access to the schemes. For this reason, it is

proportionate to the objective that the schemes must be applied by each Member State throughout their territories.

3.4. Choice of instruments

The proposal for a Regulation of the European Parliament and of the Council on agricultural product quality schemes replaces existing Council Regulations (EC) No 509/2006 and (EC) No 510/2006, and incorporates existing provisions relating to optional quality terms currently in Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products¹⁵ and in Directive 2001/110/EC related to honey¹⁶.

The regulation is accompanied by a parallel legislative proposal for marketing standards comprising a European Parliament and Council Regulation modifying Council Regulation (EC) No 1234/2007 aligned to the rules of the TFEU.

4. BUDGETARY IMPLICATION

None of the European Union schemes have budgetary implications.

However, it has been shown necessary for the Commission to take a more active role to protect the names of the quality schemes and the Union symbols, particularly in third countries. To achieve this, additional budgetary resources are necessary. They are shown in the financial statement.

5. OPTIONAL ELEMENTS: SIMPLIFICATION

The proposed regulation simplifies administration of the schemes by bringing different quality schemes for agricultural products as well as the optional quality terms, into one legislative instrument. It ensures coherence between the instruments and makes the schemes more easily understandable for stakeholders. The proposal clarifies and simplifies provisions for Member States, which are primarily responsible for the implementation and control of the schemes.

The main elements of simplification are:

- combination where possible of rules for application processes and controls, with benefits in terms of coherence of rules across schemes, ending current divergences in procedures;
- procedures are shortened and streamlined where possible;
- clarifications are introduced in particular in relation to intellectual property rights;

¹⁵ OJ L 299, 16.11.2007, p. 45.

¹⁶ OJ L 10, 12.1.2002, p. 47.

- simpler concepts more easily understood by consumers are introduced, notably in the traditional specialities guaranteed scheme;
- a single committee (the quality policy committee) is established for all schemes. This replaces two committees currently operating for the schemes for designations of origin and geographical indications, and for traditional specialities guaranteed.

For marketing standards, the proposed modification of Regulation (EC) No 1234/2007 will represent a simplification in terms of procedures and it will increase the transparency as far as marketing standards provisions are concerned.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on agricultural product quality schemes

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 Committee¹⁷,

Having regard to the opinion of the Committee of the Regions¹⁸,

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.

¹⁷ OJ C , , p. .

¹⁸ 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 growth¹⁹, 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 cocktails²⁰;
 - Council Directive 2001/110/EC of 20 December 2001, related to honey²¹ 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 Union²² 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 guaranteed²³;
 - Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs²⁴;
 - 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)²⁵ 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;

¹⁹ Communication from the Commission 'EUROPE 2020 A strategy for smart, sustainable and inclusive growth', COM(2010) 2020

²⁰ OJ L149, 14.06.1991, p. 1

²¹ OJ L 10, 12.1.2002, p. 47

²² OJ L 42, 14.2.2006, p. 1.

²³ OJ L 93, 31.3.2006, p. 1.

²⁴ OJ L 93, 31.3.2006, p. 12.

²⁵ 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 2092/91²⁶;
 - 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 1576/89²⁷.
- (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 foodstuffs²⁸.
- (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 policy²⁹ 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.

²⁶ OJ L 189, 20.7.2007, p. 1.

²⁷ OJ L 39, 13.2.2008, p. 16.

²⁸ OJ L 109, 6.5.2000, p. 29.

²⁹ 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 foodstuffs³⁰ 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.

³⁰ 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 marks³¹ 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.
- (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

³¹ OJ L 299, 8.11.2008, p. 25.

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 rules³², 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.
- (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.

³² OJ L 191, 28.5.2004, p. 1.

- (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 products³³
- (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.
- (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.

³³ OJ L 218, 13.08.2008, p. 30.

- (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)³⁴ and in accordance with Article 5 of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy³⁵.
- (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 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.
- (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 ...³⁶,

HAVE ADOPTED THIS REGULATION:

³⁴ OJ L 277, 21.10.2005, p. 1.

³⁵ OJ L 209, 11.8.2005, p. 1.

³⁶

Title I

INTRODUCTORY PROVISIONS

Article 1

Subject matter

1. This Regulation is designed to assist producers of agricultural products 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.

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 Council³⁷ 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 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 generations, at least 50 years;
- (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.

³⁷ 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 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 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.

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 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 the principal physical, chemical, microbiological and 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 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;
3. In order to ensure that product specifications provide relevant and succinct information, the Commission may, by means of delegated acts, lay down 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 statement of opposition as referred to in the first 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 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.
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.

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 the technical characteristics of the Union symbols as well as 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 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 mark³⁸ 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;

³⁸ OJ L 78, 24.3.2009, p. 1.

- (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).
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 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 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 composition corresponding to traditional practice for that product, and
 - (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 of the product.
3. 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.
4. In order to ensure a smooth functioning of the scheme, the Commission may, by means of delegated acts, 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 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, lay down rules for the preparation of a product specification.

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 statement of opposition as referred to in the first 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.
2. 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.

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 Regulation the symbol referred to in paragraph 2 shall, without prejudice to paragraph 4, 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 order to ensure that the appropriate information is communicated to the consumer, the Commission shall, by means of delegated acts, define the technical characteristics of the Union symbol as well as 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.

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 55(1) of this Regulation, may continue to be used under the conditions provided for in Regulation (EC) No 509/2006, until 31 December 2017.
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 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:

- (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, lay down detailed rules relating to the criteria 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.

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

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 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.
3. 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.
4. In order to fully protect the rights of interested parties, the Commission 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, 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:
- (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 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.

Article 42

Role of groups

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.

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.

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.

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

In order to avoid any disproportionate requirements, the Commission 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, 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.

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.

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 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, 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 months from the date of publication in the *Official Journal of the European Union*, a statement 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 of opposition to the Member State in which it is established within a time limit permitting an opposition in accordance with paragraph 1.

2. The Commission shall check the admissibility of statements of oppositions.
3. Where 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.
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 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, 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 admissible 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 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 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, 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.

The Commission may, at the request of the producers of product marketed under the registered name, cancel the corresponding registration.

2. 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, by means of delegated acts, lay down rules regarding the cancellation process.

Title VI

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.

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.

Article 54

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 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 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

Correlation Table referred to in Article 55(3)

1. REGULATION (EC) NO 509/2006

| Regulation (EC) No 509/2006 | This Regulation |
|---|----------------------------------|
| Article 1(1) | Article 2(1) |
| Article 1(2) | Article 2(3) |
| Article 1(3) | Article 2(4) |
| Article 2(1) point (a) | Article 3(6) |
| Article 2(1) point (b) | Article 3(4) |
| Article 2(1) point (c) | - |
| Article 2(1) point (d) | Article 3(3) |
| Article 2(2), first to third subparagraph | - |
| Article 2(2) fourth subparagraph | Article 46(1) |
| Article 3 | Article 22(1) first subparagraph |
| Article 4(1) first subparagraph | Article 18(1) |
| Article 4(2) | Article 18(2) |
| Article 4(3) first subparagraph | - |
| Article 4(3) second subparagraph | Article 18(3) |
| Article 5(1) | Article 40(1) |
| Article 5(2) | Article 39(1) and Article 40(2) |
| Article 6(1) | Article 19(1) |
| Article 6(1) point (a) | Article 19(2) point (a) |
| Article 6(1) point (b) | Article 19(2) point (b) |
| Article 6(1) point (c) | Article 19(2) point (c) |
| Article 6(1) point (d) | - |
| Article 6(1) point (e) | Article 19(2) point (d) |

| | |
|-----------------------------------|--------------------------------|
| Article 6 (1), point f) | - |
| Article 7(1) and (2) | Article 46(1) |
| Article 7(3), point a) and b) | Article 20(1) , point a)and b) |
| Article 7 (3), point c) | - |
| Article 7 (3), point d) | - |
| Article 7(4) | Article 46(2) |
| Article 7(5) | Article 46(3) |
| Article 7(6), points (a) to c) | Article 46(4) |
| Article 7(6) point (d) | Article 20(2) |
| Article 7(7) | Article 46(5) |
| Article 7(8) | Article 46(6) |
| Article 8(1) | Article 47(1) |
| Article 8 (2), first subparagraph | Article 47(2), second indent |
| Article 8(2) second subparagraph | Article 49(1) |
| Article 9(1) and (2) | Article 48(1) |
| Article 9(3) | Article 21(1) and (2) |
| Article 9(4) | Article 49(2) |
| Article 9(5) | Article 49(3) and (4) |
| Article 9(6) | Article 48(5) |
| Article 10 | Article 51 |
| Article 11 | Article 50 |
| Article 12 | Article 23 |
| Article 13(1) | - |
| Article 13(2) | Article 23(1) |
| Article 13(3) | - |
| Article 14(1) | Article 33(1) |

| | |
|-----------------------------|--|
| Article 14(2) | Article 43(1) |
| Article 14(3) | Article 34(3), second subparagraph |
| Article 15(1), first indent | Article 33(3) point (a) and Article 34 (1) |
| Article 15(1) second indent | Article 36(1) |
| Article 15(2) | Article 34(2) |
| Article 15(3) | Article 36(2) |
| Article 15(4) | Article 33(2) |
| Article 16 | - |
| Article 17(1) and (2) | Article 24(1) |
| Article 17(3) | Article 24(2) |
| Article 18 | Article 54 |
| Article 19(1) point (a) | Article 19(3) |
| Article 19(1) point (b) | Article 46(8) |
| Article 19(1) point (c) | Article 46(8) |
| Article 19(1) point (d) | Article 22(2) |
| Article 19(1) point (e) | Article 21(3) |
| Article 19 (1) point f) | Article 51 (2) |
| Article 19(1) point (g) | Article 23(5) |
| Article 19(1) point (h) | Article 50(3) |
| Article 19(1) point (i) | - |
| Article 19(2) | Article 25(1) |
| Article 19(3) point (a) | - |
| Article 19(3) point (b) | Article 25(2) |
| Article 20 | Article 44 |
| Article 21 | Article 55 |
| Article 22 | Article 56 |

| | |
|---------|---------|
| Annex I | Annex I |
|---------|---------|

2. REGULATION (EC) NO 510/2006

| Regulation (EC) No 510/2006 | This Regulation |
|--|---|
| Article 1(1) | Article 2(1) and Article 2(2) |
| Article 1(2) | Article 2(3) |
| Article 1(3) | Article 2(4) |
| Article 2 | Article 5 |
| Article 3(1) first subparagraph | Article 6 (1) |
| Article 3(1) second and third subparagraph | Article 38(1), (2) and (3) |
| Article 3 (2), (3) and (4) | Article 6 (2), (3) and (4) |
| Article 4 | Article 7 |
| Article 5(1) | Article 3(3) and Article 46(1) |
| Article 5(2) | Article 46(1) |
| Article 5(3) | Article 8(1) |
| Article 5(4) | Article 46(2) |
| Article 5(5) | Article 46(3) |
| Article 5(6) | Article 9 and Article 15(3) |
| Article 5(7) | Article 8(2) |
| Article 5(8) | - |
| Article 5(9) | Article 8(1), second subparagraph |
| Article 5(10) | Article 46(6) |
| Article 6(1) first subparagraph | Article 47(1) |
| Article 6 (2) first subparagraph | Article 47(2), first indent |
| Article 6(2) second subparagraph | Article 49(1) |
| Article 7(1) | Article 48(1), first subparagraph |
| Article 7 (2) | Article 48(1), second subparagraph |
| Article 7(3) | Article 10 |
| Article 7(4) | Article 49(2) and Article 49 (4) |
| Article 7(5) | Article 49(3) and (4) and Article 48(4) |
| Article 7(6) | Article 11 |

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| Article 7(7) | Article 48(5) |
| Article 8 | Article 12 |
| Article 9 | Article 50 |
| Article 10(1) | Article 33(1) |
| Article 10(2) | Article 43(1) |
| Article 10(3) | Article 34(3) second subparagraph |
| Article 11(1) first indent | Article 33(3) point (a) and Article 34(1) |
| Article 11(1) second indent | Article 36(1) |
| Article 11(2) | Article 34(2) |
| Article 11(3) | Article 36(2) |
| Article 11(4) | Article 33(2) |
| Article 12 | Article 51 |
| Article 13(1) | Article 13(1) |
| Article 13(2) | Article 13(2) |
| Article 13(3) | Article 15 (1) |
| Article 13(4) | Article 15(2) |
| Article 14 | Article 14 |
| Article 15 | Article 54 |
| Article 16 point a) | Article 5(3) |
| Article 16 point b) | Article 7(3) |
| Article 16 point c) | Article 46(7) |
| Article 16 point d) | Article 46(8) |
| Article 16 point e) | - |
| Article 16 point f) | Article 48(6) |
| Article 16 point g) | Article 12(5) |
| Article 16 point h) | Article 50(3) |
| Article 16 point i) | Article 11(4) |
| Article 16 point j) | - |
| Article 16 point k) | Article 51(2) |
| Article 17 | Article 16 |

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| Article 18 | Article 44 |
| Article 19 | Article 55 |
| Article 20 | Article 56 |
| Annex I and Annex II | Annex I |

| FINANCIAL STATEMENT | | | | CM/JGS/tm/10/717666 Rev1 6.0.2010.1 | |
|--|---|----------------------------------|---|--|----------------------|
| | | | | DATE: 24/11/2010 | |
| 1. | BUDGET HEADING: 05 04 05 02 | | | APPROPRIATIONS: CA 22.5 mioeuro CP 9 mioeuro | |
| 2. | TITLE: Proposal for a Regulation of the European Parliament and of the Council on agricultural product quality schemes. | | | | |
| 3. | LEGAL BASIS: Art 43 (2) of the Treaty on the functioning of the European Union | | | | |
| 4. | AIMS: To put in place a coherent agricultural product quality policy aimed at assisting farmers to better communicate the qualities, characteristics and attributes of agricultural products to consumers. | | | | |
| 5. | FINANCIAL IMPLICATIONS | 12 MONTH PERIOD (EUR million) | CURRENT FINANCIAL YEAR 2010 (EUR million) | FOLLOWING FINANCIAL YEAR 2011 (EUR million) | |
| 5.0 | EXPENDITURE - CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER | CA 0.150 CP 0.150 | - | - | |
| 5.1 | REVENUE - OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) - NATIONAL | | - | - | |
| | | 2012 | 2013 | 2014 | 2015 |
| 5.0.1 | ESTIMATED EXPENDITURE | CA 0.110 CP 0.110 | CA 0.150 CP 0.150 | CA 0.150 CP 0.150 | CA 0.150 CP 0.150 |
| 5.1.1 | ESTIMATED REVENUE | | | | |
| 5.2 | METHOD OF CALCULATION: | | | | |
| 6.0 | CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET? | | | | YES NO |
| 6.1 | CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET? | | | | YES NO |
| 6.2 | WILL A SUPPLEMENTARY BUDGET BE NECESSARY? | | | | YES -NO |
| 6.3 | WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS? | | | | YES NO |
| OBSERVATIONS: The initial estimate of appropriations necessary for measures in Article 46(3) in particular for the registration and defence of logos, indications and abbreviations in 3 rd countries amounts to EUR 110 000 in 2012 and EUR 150 000 annually as from 2013. The funding foreseen in 2014 and 2015 is subject to the availability of appropriations in these years | | | | | |