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CORRIGENDUM: Annule et remplace le document COM(2005) 698 final du 23.12.2005 pour raison technique. Cette correction concerne seulement les versions linguistiques suivantes: EN, FR et DE.

Proposal for a

COUNCIL REGULATION

**on the protection of geographical indications and designations of origin
for agricultural products and foodstuffs**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. As of 24 July 1993 Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs instituted a voluntary Community system of protection on Community territory for geographical indications and designations of origin. This voluntary system gives interested producers the possibility of protecting certain names by registering them. The protection provided by the system consists in reserving the use of these designations of origin and geographical indications for agricultural products and foodstuffs which have been produced and/or processed in the regions or places designated by these names, subject to specific conditions concerning their production/processing/preparation laid down by the producers.
2. The desire of operators to protect agricultural products and foodstuffs identifiable by their geographic origin had led some Member States to develop “registered designations of origin”. The objective of the Community scheme was to harmonise the disparate national approaches to food products other than wines and spirits — covered by other Community rules — thus assuring operators of fair competition, strong and effective protection against misuse and imitation of the names concerned and ultimately giving greater credibility to the products qualifying for a designation of origin or a geographical indication.
3. Since 1993, more than 700 names, designating *inter alia* over 150 cheeses, 160 meat and meat-based products, 150 fresh or processed fruits or vegetables and 80 types of olive oil, have been registered in this context. The Commission has also received over 300 further applications for the registration of names and/or amendments to specifications from Member States and third countries. These facts show that this voluntary scheme has been clearly welcomed in the Community. The definition of a common Community symbol has also helped consumers to start recognising the Community protection scheme concerned.
4. The procedure for registering new names originating in the Community comprises two stages. The first is carried out at national level by the authorities of the Member State where the geographical area concerned is located; the second, which is conducted at Community level by the Commission, involves an examination of the application in order to check that it meets the conditions laid down in the Regulation and an objection procedure under which, following publication of the main details of the application, any operator may object to the registration on the basis of specific criteria. Experience acquired in performing this procedure shows, on the one hand, that it can lead to an overlap of the work carried out by the Member States and the Commission; on the other hand, those two stages can entail the complex examination of sometimes very voluminous files, the structure and content of which of course vary widely from one application to another. Moreover, those two stages can entail the complex examination of sometimes very voluminous files, the structure and content of which of course vary widely from one application to another. In these circumstances, the procedures should be streamlined and the responsibilities of the different authorities involved in examining applications should be clarified in order to enhance the transparency of applications and the equality of treatment among applicants.
5. In addition, following the lodging of complaints WT/DS174 and WT/DS290 with the World Trade Organisation (WTO) by the United States and Australia respectively,

the WTO Dispute Settlement Body (DSB) adopted on 20 April 2005 the Panel Reports on the European Communities - Protection of trademarks and geographical indications for agricultural products and foodstuffs. Those Reports conclude that Regulation (EEC) No 2081/92 is incompatible with Article 3:1 of the TRIPS Agreement and with Article III:4 of GATT 1947. The DSB based this finding on the reciprocity and equivalence conditions set out in Articles 12 *et seq.* of Regulation (EEC) No 2081/92, on the fact that the procedures for requesting registration and for objecting which apply to third countries require the involvement (examination and transmission) of third country governments, and on the existence of instructions requiring third-country governments to participate in checks. It is necessary to bring that Regulation into line with the TRIPS Agreement and GATT 1994 by the deadlines agreed with the other parties concerned.

6. A first amendment priority lies in defining more clearly the key information to be officially published prior to registration in order to permit, on the one hand, any operator to exercise his or her right of objection and, on the other, the authorities responsible for checking to guarantee *ex officio* protection for the names registered in each Member State. This information, which is contained in a single document, covers *inter alia* the actual name, a description of the product for verification, labelling and presentation purposes (including, in this respect, any packaging restrictions outside the area of origin and the justification for such restrictions), and proof of the link between the product and its geographical origin. A standardised, comprehensive presentation of those elements will make it possible to ensure greater homogeneity and equal treatment for applications, while guaranteeing that all the elements which are to be made fully transparent to operators located outside the defined area are mentioned.
7. A second amendment priority lies in defining more clearly the distribution of responsibilities between the Member States and the Commission in this area. For any application covering a specific Community area, the Member State is in fact obliged to ensure that the application meets the conditions of the Regulation. The existence of a subsequent examination by the Commission could not exempt the Member States from fulfilling their obligations in this connection. It should be specified that this responsibility includes the need to make public any plan by a Member State to transmit to the Commission a request which satisfies the conditions of the Regulation, so that any operators established on the territory of that State may exercise a right of objection which, according to the case law on the subject (order of 26 October 2000 delivered by the Court in Case C-447/98 *Molkerei Grossbraunshain and Bene Nahrungsmittel v Commission*), they may not exercise at Community level.
8. The Commission's responsibilities consist in verifying by appropriate means that the conditions of this Regulation are satisfied before deciding whether or not to publish the elements mentioned above and, following the objection procedure, deciding whether or not to take a decision on whether to register or reject the application. If the information sent to the Commission within the "single document" appears to be insufficient, the Commission is entitled to ask the Member State to communicate any relevant complementary information, including a copy of the specifications.
9. Names corresponding to geographical areas in third countries have access to the Community scheme for the protection of geographical indications for agricultural products and foodstuffs. However, in accordance with Article 24:9 of the TRIPS Agreement, the Community scheme is open only to third-country geographical

indications which are protected in their country of origin. In order to bring Community legislation into line, it is necessary to revoke the existing provisions in Regulation (EC) No 2081/92 on equivalence and reciprocity, as well as the provisions requiring action on the part of third-country governments. However, certain operators established in third countries and certain governments may voluntarily wish applications and/or objections to be transmitted to the Community through the agency of the relevant third-country authorities: this option should be mentioned for the benefit of third countries which might wish to use it on a voluntary basis.

10. Procedures can also be streamlined and rationalised, particularly as regards amendments to specifications, at the end of the objection procedure or after registration, and as regards cancellations and other possible measures in the event of a failure to respect the specifications. For reasons of simplification, account should also be taken of the Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission as regards the registration, amendment or rejection of specific names: since this involves non-general measures implementing the common agricultural policy, recourse to a management procedure is justified.
11. It would also be desirable to enhance the credibility of the system. Firstly, by reinforcing the provisions on controls and including them clearly in the general framework established by 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 rules, it will be possible to reinforce application of the *ex officio* protection provided for in Article 13 of Regulation (EEC) No 2081/92. Respect for specifications by operators is also subject to control provisions, among which one amendment is aimed at compulsory accreditation for private control bodies. Such compulsory accreditation makes it possible to avoid any obligation on governments to appoint control bodies, while maintaining total equality of treatment between operators in the Member States and operators in third countries.
12. The requirement, in the case of Community names, that the labelling of products marketed under a registered name indicate both the Community markings ("protected designation of origin"/"PDO" and "protected geographical indication"/"PGI") and the Community symbols associated with them also helps reinforce the credibility of the system.
13. Since the definition of "geographical indication" given in Article 22 of the TRIPS Agreement may in some respects appear broader than the existing definition in Article 2(2)(b) of Regulation (EEC) No 2081/92, this proposal is also aimed at bringing those definitions closer together.
14. Broad consultations have taken place on the main thrust of these amendments. In particular, the subject was discussed in June 2005 within the Advisory Group on the quality of agricultural products, composed of representatives of producers, processors, traders, and consumer- and environmental-protection associations interested in questions relating to the quality of agricultural products.
15. The proposed measures have no impact on the general budget of the European Communities.

Proposal for a

COUNCIL REGULATION

on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) The production, manufacture and distribution of agricultural products and foodstuffs play an important role in the Community economy.
- (2) The diversification of agricultural production should be encouraged so as to achieve a better balance between supply and demand on the markets. The promotion of products having certain characteristics can be of considerable benefit to the rural economy, in particular in less-favoured or remote areas, by improving the incomes of farmers and by retaining the rural population in these areas.
- (3) Some consumers tend to attach greater importance to the quality of foodstuffs in their diet rather than to quantity. This quest for specific products generates a demand for agricultural products or foodstuffs with an identifiable geographical origin.
- (4) In view of the wide variety of products marketed and the abundance of product information provided, the consumer should, in order to be able to make the best choices, be given clear and succinct information regarding the product origin.
- (5) The labelling of agricultural products and foodstuffs is 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 foodstuffs¹. In view of their specific nature, additional special provisions should be adopted for agricultural products and foodstuffs from a specified geographical area. The use of the indications and Community symbols concerned should also be made obligatory in the case of Community designations, 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

¹ OJ L 109, 6.5.2000, p. 29. Directive as last amended by Directive 2003/89/EC (OJ L 308, 25.11.2003, p. 15).

products on the market so as to facilitate checks. A reasonable length of time should be allowed for operators to adjust to this obligation.

- (6) Provision should be made for a Community approach to designations of origin and geographical indications. A framework of Community rules on a system of protection permits the development of geographical indications and designations of origin 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.
- (7) The rules provided for should apply without interfering with existing Community legislation on wines and spirit drinks.
- (8) The scope of this Regulation is limited to certain agricultural products and foodstuffs for which a link exists between product or foodstuff characteristics and geographical origin. However, its scope could be enlarged to encompass other products or foodstuffs.
- (9) In the light of existing practices, two different types of geographical description should be defined, namely protected geographical indications and protected designations of origin.
- (10) An agricultural product or foodstuff bearing such an indication should meet certain conditions set out in a specification.
- (11) To qualify for protection in the Member States, geographical indications and designations of origin must be registered at Community level. Entry in a register also provides information to those involved in the trade and to consumers. To ensure that Community-registered names 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 objection procedure, and the Commission should subsequently be involved in a scrutiny procedure to ensure that applications satisfy the conditions of the Regulation and that the approach is uniform across the Member States.
- (12) The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement 1994, contained in Annex 1C to the Agreement establishing the World Trade Organisation) contains detailed provisions on the existence, acquisition, scope, maintenance and enforcement of intellectual property rights.
- (13) The protection afforded by this Regulation, subject to registration, should be open to the geographical indications of third countries where these are protected in their country of origin.
- (14) The registration procedure should enable any natural or legal person individually and directly concerned in a Member State or a third country to exercise their rights by notifying the Commission of their objections.
- (15) There should be procedures to permit amendment of specifications, after registration, in the light of technological progress and removal or withdrawal from the register of the geographical indication or designation of origin for an agricultural product or foodstuff, in particular if that product or foodstuff ceases to conform to the specification on the basis of which the geographical indication or designation of origin was granted.

- (16) The designations of origin and geographical indications protected on Community territory must be subject to a credible monitoring system, based on a system of checks in line with 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 rules² and a system of checks to ensure that operators in a delimited geographic area comply with the specification before marketing the agricultural products and foodstuffs concerned.
- (17) The Member States should be authorised to levy an administrative charge to cover the administrative costs incurred.
- (18) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission³.
- (19) The names already registered under Regulation (EEC) No 2081/92 on the date of entry into force of this Regulation should continue to be protected under this Regulation and automatically included in the register. Provision should also be made for transitional measures applicable to registration applications received by the Commission prior to the entry into force of this Regulation.
- (20) In the interests of clarity and transparency, Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs⁴ should be repealed and replaced by a new Regulation,

HAS ADOPTED THIS REGULATION:

Article 1
Scope

1. This Regulation lays down rules on the protection of designations of origin and geographical indications for agricultural products intended for human consumption listed in Annex I to the Treaty and for foodstuffs and agricultural products listed in Annexes I and II respectively to this Regulation.

It shall not, however, apply to wine-sector products, except wine vinegars, or to spirit drinks. This paragraph shall be without prejudice to the application of Regulation (EC) No 1493/1999⁵.

Annexes I and II to this Regulation may be amended in accordance with the procedure referred to in Article 15(2).

2. This Regulation shall apply without prejudice to other specific Community provisions.

² OJ L 165, 30.4.2004, p. 1. Corrected version, OJ L 191, 28.5.2004, p. 1.

³ OJ L 184, 17.7.1999, p. 23.

⁴ OJ L 208, 24.7.1992, p. 1. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁵ OJ L 179, 14.7.1999, p. 1.

3. Directive 98/33/EC of the European Parliament and of the Council⁶ shall not apply to the designations of origin and geographical indications covered by this Regulation.

Article 2

Designation of origin and geographical indication

1. For the purpose of this Regulation:
- (a) “designation of origin” means the name of a region, a specific place or, in exceptional cases, a country, used to describe an agricultural product or a foodstuff
- originating in that region, specific place or country,
 - the quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and
 - the production, processing and preparation of which take place in the defined geographical area;
- (b) ”geographical indication” means an indication serving to identify an agricultural product or a foodstuff
- as originating in a region, specific place or country,
 - which possesses a specific quality, reputation or other characteristic essentially attributable to that geographical origin, and
 - the production, processing or preparation of which take place in the defined geographical area.
2. Traditional geographical or non-geographical names designating an agricultural product or a foodstuff originating in a region or a specific place which fulfil the conditions referred to in the second and third intents of paragraph 1(a) shall also be considered as designations of origin.
3. Notwithstanding paragraph 1(a), certain geographical designations 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 processing 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 inspection arrangements to ensure that the conditions referred to in point (b) are adhered to.

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

⁶ OJ L 204, 21.7.1998, p. 37.

Article 3

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

1. Names that have become generic cannot be registered.

For the purposes of this Regulation, a “name that has become generic” means the name of an agricultural product or a foodstuff which, although it relates to the place or the region where this product or foodstuff was originally produced or marketed, has become the common name of an agricultural product or a foodstuff in the Community.

To establish whether or not a name 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 Community laws.

2. A name may not be registered as a designation of origin or a geographical indication where it conflicts with the name of a plant variety or an animal breed and as a result is likely to mislead the public as to the true origin of the product.

3. A name wholly or partially homonymous with that of a name already registered under this Regulation shall be registered with due regard for local and traditional usage and the actual risk of confusion. In particular:

- (a) a homonymous name which misleads the public into believing that products come from another territory shall not be registered even if the name is strictly accurate as far as the actual territory, region or place of origin of the agricultural products or foodstuffs in question is concerned;
- (b) the use of a registered homonymous name shall be subject to there being a sufficient distinction in practice between the homonym registered subsequently and the name already on the register, having regard to the need to treat the producers concerned in an equitable manner and not to mislead consumers.

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

Article 4

Product specification

1. To be eligible as a protected designation of origin (PDO) or a protected geographical indication (PGI), an agricultural product or foodstuff shall comply with a specification.

2. The product specification shall include at least:

- (a) the name of the agricultural product or foodstuff comprising the designation of origin or the geographical indication;

- (b) a description of the agricultural product or foodstuff, including the raw materials, if appropriate, and principal physical, chemical, microbiological and organoleptic characteristics of the product or the foodstuff;
- (c) the definition of the geographical area and, where appropriate, details indicating compliance with the requirements of Article 2(3);
- (d) evidence that the agricultural product or the foodstuff originates in the defined geographical area referred to in Article 2(1)(a) or (b), as the case may be;
- (e) a description of the method of obtaining the agricultural product or foodstuff and, if appropriate, the authentic and unvarying local methods as well as information concerning packaging, if the applicant group within the meaning of Article 5(1) so determines and gives reasons why the packaging must take place in the defined geographical area to safeguard quality, ensure traceability or ensure control;
- (f) details bearing out the following:
 - (i) the link between the quality or characteristics of the agricultural product or foodstuff and the geographical environment referred to in Article 2(1)(a) or, as the case may be,
 - (ii) the link between a specific quality, the reputation or other characteristic of the agricultural product or foodstuff and the geographical origin referred to in Article 2(1)(b);
- (g) the name and address of the inspection bodies referred to in Article 11;
- (h) any specific labelling rule for the agricultural product or foodstuff in question;
- (i) any requirements laid down by Community or national provisions.

Article 5

Application for registration

1. Only groups shall be entitled to apply for registration.

For the purposes of this Regulation, “group” means any association, irrespective of its legal form or composition, of producers or processors working with the same agricultural product or foodstuff. Other interested parties may participate in the group. A natural or legal person may be treated as a group in accordance with the detailed rules referred to in Article 16(c).

In the case of a name designating a trans-border geographical area or a traditional name connected to a trans-border geographical area, several groups may lodge a joint application in accordance with the detailed rules referred to in Article 16(d).

2. A group may lodge a registration application only for the agricultural products or foodstuffs which it produces or obtains.
3. The application for registration shall include:
 - (a) the name of the applicant group;

- (b) the specification provided for in Article 4;
- (c) a single document setting out the following:
 - (i) the main points of the specification: the name, a succinct description of the product, including specific rules concerning packaging and labelling, and a brief definition of the geographical area;
 - (ii) a concise description of the link between the product and the geographical environment or geographical origin referred to in Article 2(1)(a) or (b), as the case may be, including, where appropriate, the specific elements of the product description or production method justifying the link.

4. Where the registration application relates to a geographical area in a given Member State, the application shall be addressed to that Member State.

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

5. As part of the scrutiny referred to in paragraph 4, the Member State shall initiate an objection procedure at national level, ensuring adequate publication of the application allowing a reasonable period within which any person having a legitimate interest and established or resident on its territory may declare their objection to the application.

The Member State shall consider the admissibility of objections received in the light of the criteria referred to in the first subparagraph of Article 7(3).

If the requirements of this Regulation are met, the Member State shall adopt a national recognition decision. If not, the Member State shall decide to reject the application.

The Member State shall ensure that the national recognition is publicised and that any person directly and individually concerned has means of appeal.

The Member State shall publish the version of the specification on which the national recognition decision is based, and assure electronic access to this publication.

6. The Member State may, on a transitional basis only, grant protection under this Regulation at national level to the name, and, where appropriate, an adjustment period, with effect from the date on which the application is lodged with the Commission.

The adjustment period provided for in the first subparagraph may be granted only on condition that the undertakings concerned have legally marketed the products in question, using the names concerned continuously for at least the past five years and have made that point in the national objection procedure referred to in the first subparagraph of paragraph 5.

Such transitional national protection shall cease on the date on which a decision on registration under this Regulation is taken.

The consequences of such transitional 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 subparagraph shall produce effects at national level only; they shall have no effect on intra-Community trade.

7. In respect of any national recognition decision as referred to in the third subparagraph of paragraph 5, the Member State concerned shall forward to the Commission:
 - (a) the name of the applicant group;
 - (b) the single document referred to in paragraph 3(c);
 - (c) a declaration by the Member State that the application lodged by the group and qualifying for the national recognition decision meets the conditions of this Regulation and the provisions adopted for its implementation,
 - (d) the publication reference of the specification referred to in the fifth subparagraph of paragraph 5.
8. Member States shall introduce the laws, regulations and administrative provisions necessary to comply with paragraphs 4 to 7.
9. Where the registration application concerns a geographical area situated in a third country, it shall comprise the elements provided for in paragraph 3 and also proof that the name in question is protected in its country of origin.

The application shall be sent to the Commission, either directly or via the competent authorities of the third country concerned.
10. The documents referred to in this Article sent to the Commission shall be in one of the official Community languages or accompanied by a certified translation into one of those languages.

Article 6 Scrutiny by the Commission

1. The Commission shall scrutinize the application in an appropriate manner to check that it is justified and meets the conditions of this Regulation.

The Commission shall 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 the conditions laid down in this Regulation appear to be met, the Commission shall publish in the *Official Journal of the European Union* the single document and the reference to the publication of the specification referred to in the fifth subparagraph of Article 5(5).

Where that is not the case, the Commission shall decide, under the procedure referred to in Article 15(3) to reject the registration application.

Article 7
Objection/decision on registration

1. Within four months from the date of publication in the *Official Journal of the European Union* provided for in the first subparagraph of Article 6(2), any Member State or third country may object to the registration proposed, by sending a duly substantiated statement to the Commission.

2. Any natural or legal person directly and individually concerned, established or resident in a Member State other than that applying for the registration or in a third country, may also object to the proposed registration by lodging a duly substantiated statement.

In the case of natural or legal persons established or resident in a Member State, such statement shall be sent to the competent authority of that Member State within a time limit permitting an objection in accordance with paragraph 1.

In the case of natural or legal persons resident in a third country, such statements shall be sent to the Commission, either directly or via the competent authorities of the country concerned, within the time limit set in paragraph 1.

3. Statements of objection shall be admissible only if they are received by the Commission within the time limit set in paragraph 1 and if they:

- (a) either demonstrate non-compliance with the conditions referred to in Article 2,
- (b) or demonstrate that the registration of the name proposed would be contrary to paragraphs 2 to 4 of Article 3;
- (c) or give details from which it can be concluded that the name for which registration is requested is generic within the meaning of Article 3(1).

The Commission shall check the admissibility of objections.

The criteria referred to in points (b) and (c) of the first subparagraph must be proven and evaluated in relation to the territory of the Community.

4. Where the Commission receives no admissible objection under paragraph 3 within the time limit set in paragraph 1, it shall register the name.

The registration shall be published in the *Official Journal of the European Union*.

5. Where an objection is admissible under paragraph 3, the Commission shall invite the interested parties to undertake appropriate consultations.

If an agreement is reached between the interested parties within six months, they shall notify the Commission of all the factors that have made the agreement possible, including the applicant's and the objector's opinions. If the details published in accordance with Article 6(2) have not been amended or have been amended in only a minor way, to be defined in accordance with Article 16(h), the Commission shall proceed in accordance with paragraph 4. If not, it shall undertake a fresh examination under Article 6(1).

If no agreement is reached, the Commission shall take a decision in accordance with the procedure laid down in Article 15(3), having regard to fair and traditional usages applied and of the actual likelihood of confusion. The decision shall be published in the *Official Journal of the European Union*.

6. The Commission shall maintain updated a register of protected designations of origin and protected geographical indications.
7. The documents referred to in this Article sent to the Commission shall be in one of the official Community languages or accompanied by a certified translation into one of those languages.

Article 8

Names, markings and symbols

A name registered under this Regulation may be used by any operator marketing agricultural product or foodstuffs conforming to the corresponding specification

In the case of the agricultural products and foodstuffs originating in the Community marketed under a name registered in accordance with this Regulation, the indications “protected designation of origin” and “protected geographical indication” or their respective abbreviations (“PDO” and “PGI”) and the Community symbols associated with them must appear on the labelling.

In the case of agricultural products and foodstuffs originating in third countries marketed under a name registered in accordance with this Regulation the indications referred to in the second subparagraph and the associated Community symbols may equally appear on the labelling.

Article 9

Approval of changes to specifications

1. The original applicant group or, if this group cannot act, another group satisfying the conditions of Article 5(2), may apply for approval of an amendment to a specification, in particular to take account of developments in scientific and technical knowledge or to redefine the geographical area referred to in Article 4(2)(c).

Applications shall describe and give reasons for the amendments requested.

2. Where the amendment involves one or more amendments to the single document, the amendment application shall be covered by the procedure laid down in Articles 5 to 7. However, if the proposed amendments are only minor, the Commission shall decide whether to approve the application without following the procedure laid down in Article 6(2) and Article 7.
3. Where the amendment does not involve any change to the single document, the following rules shall apply:

- (i) where the geographical area is in a given Member State, that Member State shall express its position on the approval of the amendment and, if it is in favour, shall publish the amended specification and inform the Commission of the amendments approved and the reasons for them;
- (ii) where the geographical area is in a third country, the Commission shall determine whether to approve the proposed amendment.

Article 10
System of controls

1. The Member States shall ensure that the system of controls laid down in Regulation (EC) No 882/2004 applies to operators governed by this Regulation.
2. Member States shall include operators subject to this Regulation in their national multi-annual national control plans provided for in Articles 41, 42 and 43 of Regulation (EC) No 882/2004 and in their annual reports under Article 44 of that Regulation.
3. In accordance with Article 4 of Regulation (EC) No 882/2004 the Member States shall designate a competent central body specifically responsible for implementing the control system relating to this Regulation.

Article 11
Controls of operator compliance with product specifications

1. For the purposes of checking, prior to marketing, compliance with the relevant specifications on the part of the operators concerned in the geographical area, the competent authority referred to in Article 10(3) may designate one or more official inspection bodies or else delegate the checks to one or more private inspection bodies. In accordance with Article 4(2)(g), the specification for each name shall identify one or more inspection bodies for the agricultural products or foodstuffs in question.

In the case of names referring to a geographical area in a third country, the specification shall identify one or more public or private bodies which will undertake the checks referred to in the first subparagraph.
2. The private inspection bodies referred to in paragraph 1 shall be accredited under the EN 45011 standard or an equivalent standard.
3. The public or private inspection bodies referred to in paragraph 1 must have the powers to enforce compliance with this Regulation, including, where appropriate, the power to impose penalties, if they find that an agricultural product or foodstuff bearing a protected name for which they are responsible does not meet the requirements of the specification.
4. Each Member State shall notify the Commission of the name and address of the competent authority referred to in Article 10(3), the name and address of whichever official inspection services are designated and the name and address of delegated private inspection bodies as referred to in the first subparagraph of paragraph 1, their respective tasks and any changes to this information.

In the case of names referring to a geographical area in a third country, the group shall send the Commission, either direct or via the authorities of the country concerned, the information listed in the first subparagraph.

The Commission shall make public the information referred to in the first and second subparagraphs and update it periodically.

5. Member States shall adopt appropriate measures to ensure that an operator complying with this Regulation can be inspected by the bodies referred to in this Article.
6. The costs of the controls referred to in this Article shall be borne by the operators subject to those controls.

Article 12 Cancellation

1. Where the Commission takes the view that compliance with the conditions of the specification for an agricultural product or foodstuff covered by a protected name is no longer ensured, it shall initiate the procedure referred to in Article 15(3) for the cancellation of the registration, which shall be published in the *Official Journal of the European Union*.
2. The original applicant group or, if this group cannot act, another group satisfying the conditions of Article 5(2), may request cancellation of the registration, giving reasons for the request.

The procedure provided for in Articles 5, 6 and 7 shall apply *mutatis mutandis*.

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 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 public as to the true origin of the product.

Where a registered name contains within it the name of an agricultural product or foodstuff which is considered generic, the use of that generic name on the appropriate agricultural product or foodstuff shall not be considered to be contrary to (a) or (b) in the first subparagraph.

2. Protected names may not become generic.
3. In the case of names for which registration is applied for under Article 5, provision may be made for a transitional period of up to five years under Article 7(5)(b), solely where a statement of objection has been declared admissible on the grounds that registration of the proposed name would jeopardise the existence of an entirely or partly identical name 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 Article 6(2).

A transitional period may also be set for undertakings established in the Member State or third country in which the geographical area is located, provided that the undertakings concerned have legally marketed the products in question, using the names concerned continuously for at least five years preceding the date of the publication referred to in Article 6(2) and have noted that point in the national objection procedure referred to in the first and second subparagraphs of paragraph 5 or the Community objection procedure referred to in Article 7(2). The combined total of the transitional period referred to in this subparagraph and the adjustment period referred to in Article 6 cannot exceed five years.

4. Without prejudice to the application of Article 14, the Commission may decide to allow, under the procedure provided for in Article 15(3), the coexistence of a registered name and an unregistered name designating a place in a Member State or in a third country where that name is identical to the registered name, provided that all the following conditions are met:
 - (a) the identical unregistered name has been in legal use consistently and equitably for at least 25 years prior to 24 July 1993;
 - (b) it is shown that the purpose of its use has not at any time been to profit from the reputation of the registered name and that the public has not been nor could be misled as to the true origin of the product;
 - (c) the problem resulting from the identical names was raised before registration of the name.

The registered name and the identical unregistered name concerned may co-exist for a period not exceeding a maximum of fifteen years, after which the unregistered name shall cease to be used.

Use of the unregistered geographical name concerned shall be authorised only where the country of origin is clearly and visibly indicated on the label.

Article 14
Relations between trademarks and geographical indications

1. Where a designation of origin or a geographical indication is registered under this Regulation or has been registered under Regulation (EEC) No 2081/92, the application for registration of a trademark corresponding to one of the situations referred to in Article 13 and relating to the same type of product shall be refused if the application for registration of the trademark is submitted:
 - (a) in the case of designations of origin and geographical indications registered under Article 17 of Regulation (EEC) No 2081/92, after the date of registration;
 - (b) in the case of other designations of origin and geographical indications registered under this Regulation, after the date of submission of the registration application to the Commission.

Trademarks registered in breach of the first subparagraph shall be invalidated.

2. With due regard to Community law, the use of a trademark corresponding to one of the situations referred to in 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 Community, before either the date of protection of the designation of origin or geographical indication in the country of origin or before 1 January 1996, may continue to be used notwithstanding the registration of a designation of origin or geographical indication, provided that no grounds for its invalidity or revocation exist as specified by Council Directive 89/104/EEC⁷ or Council Regulation (EC) No 40/94⁸.

Article 15
Committee on Protected Geographical Indications and Designations of Origin

1. The Commission shall be assisted by the Standing Committee on Protected Geographical Indications and Protected Designations of Origin, composed of representatives of the Member States and chaired by a Commission representative.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.
3. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be three months.
4. The Committee shall adopt its own Rules of Procedure.

⁷ OJ L 40, 11.2.1989, p. 1.

⁸ OJ L 11, 14.1.1994, p. 1.

Article 16
Implementing rules

In accordance with the procedure referred to in Article 15(2), detailed rules shall be adopted for the implementation of this Regulation. They shall cover in particular:

- (a) a list of the raw materials referred to in Article 2(3);
- (b) the information that must be included in the product specification referred to in Article 4(2);
- (c) the conditions under which a natural or legal person may be treated as a group;
- (d) the submission of a registration application for a name designating a trans-border geographical area as referred to in the third subparagraph of Article 5(1);
- (e) the content and method of transmission to the Commission of the documents referred to in Article 5(7) and (9);
- (f) objections referred to in Article 7, including rules on appropriate consultations between the interested parties;
- (g) the markings and symbols referred to in Article 8;
- (h) a definition of minor amendments as referred to in the second subparagraph of Article 7(5) and the second subparagraph of Article 9(2), bearing in mind that a minor amendment cannot relate to either the essential characteristics of the product or alter the link;
- (i) the register of designations of origin and geographical indications provided for in Article 7(6);
- (j) the conditions for checking compliance with the specifications on the part of operators in the geographical area concerned .

Article 17
Transitional provisions

1. The names already registered under Regulation (EEC) No 2081/92 on the date of entry into force of this Regulation shall be automatically entered in the register referred to in Article 7(6). The corresponding specifications shall be deemed to be the specifications referred to in Article 4(1).
2. In accordance with the procedure referred to in Article 15(2), the Commission shall adopt a Regulation facilitating the transition from the rules under Regulation (EEC) No 2081/92 to those laid down by this Regulation. Such Regulation shall lay down in particular the procedures to be followed for an effective analysis of registration applications still pending under Regulation (EEC) No 2081/92. Those procedures may include a requirement on applicants to provide additional information by a deadline to be fixed.

Article 18

Fees

Member States may charge an administrative fee to cover the costs incurred in scrutinising applications for registration, statements of objection, applications for amendments and applications for cancellations under this Regulation.

Article 19

Regulation (EEC) No 2081/92 is hereby repealed.

References to the repealed Regulation shall be taken as referring to this Regulation and shall be read against the correlation table attached at Annex III hereto.

Article 20

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

However, the second paragraph of Article 8 shall apply from 1 May 2007.

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

Done at Brussels,

For the Council
The President

ANNEX I

Foodstuffs referred to in Article 1(1):

- beers,
- beverages made from plant extracts,
- bread, pastry, cakes, confectionery and other baker's wares,
- natural gums and resins,
- mustard paste,
- pasta.

ANNEX II

Agricultural products referred to in Article 1(1):

- hay,
- essential oils,
- cork,
- cochineal (raw product of animal origin),
- flowers and ornamental plants,
- wool,
- wicker,
- scutched flax.

ANNEX III

CORRELATION TABLE

Regulation (EEC) No 2081/92	This Regulation
Article 1	Article 1
Article 2(1)	–
Article 2(2)	Article 2(1)
Article 2(3)	Article 2(2)
Article 2(4)	Article 2(3), first subparagraph
Article 2(5)	–
Article 2(6)	Article 2(3), second subparagraph
Article 2(7)	–
First, second and third subparagraphs of Article 3(1)	First, second and third subparagraphs of Article 3(1)
Article 3(1), fourth subparagraph	–
Article 3(2)	Article 3(2)
Article 3(3)	–
Article 4	Article 4
Article 5(1), (2) and (3)	Article 5(1), (2) and (3)
Article 5(4)	Article 5(4), first subparagraph
Article 5(5), first subparagraph	Article 5(4), second subparagraph
Article 5(5), second subparagraph	Article 5(6), first subparagraph
Article 9(5), third subparagraph	Article 5(6), third subparagraph
Article 5(5), fourth and fifth subparagraphs	Article 5(6), fourth and fifth subparagraphs
Article 5(5) sixth, seventh and eighth subparagraphs	–
Article 5(6)	Article 5(8)
Article 6(1), first subparagraph	Article 6(1), first subparagraph
Article 6(1), second subparagraph	–
Article 6(1), third subparagraph	Article 6(1), second subparagraph
Article 6(2)	Article 6(2), first subparagraph
Article 6(3) and (4)	–
Article 6(5), first subparagraph	Article 6(2), second subparagraph
Article 6(5), second subparagraph	–
Article 6(6), first subparagraph	–
Article 6(6), second subparagraph	Article 3(3)
Article 7(1)	Article 7(1)
Article 7(2)	–
Article 7(3)	Article 7(2), first subparagraph
Article 7(4)	Article 7(3)
Article 7(5)	Article 7(5)
Article 8	Article 8, second subparagraph
Article 9, first subparagraph	Article 9(1), first subparagraph
Article 9, second subparagraph	Article 9(2), first subparagraph

Article 9, third subparagraph
Article 10(1)
Article 10(2)
Article 10(3)
Article 10(4)
Article 10(5)
Article 10(6) and (7)
Article 11(1) to (3)
Article 11(4)
Article 11a(a)
Article 11a(b)
Articles 12 to 12d
Article 13(1)
Article 13(3)
Article 13(4)
Article 13(5)
Article 14(1) and (2)
Article 14(3)
Article 15(1) and (2)
Article 15(3)
Article 16
Article 18
Annex I
Annex II

Article 9(2), second subparagraph
–
Article 11(1)
Article 11(2)
Article 11(3)
–
Article 11(5) and (6)
–
Article 12(1)
Article 12(2)
–
–
Article 13(1)
Article 13(2)
Article 13(3), first subparagraph
Article 13(4)
Article 14(1) and (2)
Article 3(4)
Article 15(1) and (2)
Article 15(4)
Article 16
Article 20
Annex I
Annex II