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REPORT

on the proposal for a Council regulation amending Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs
(COM(2002) 139 – C5-0178/2002 – 2002/0066(CNS))

Committee on Agriculture and Rural Development

Rapporteur: Jean-Claude Fruteau

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 15 April 2002 the Council consulted Parliament, pursuant to Article 37 of the EC Treaty on the proposal for a Council regulation amending Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (COM(2002) 139 – 2002/0066(CNS)).

At the sitting of 24 April 2002 the President of Parliament announced that he had referred this proposal to the Committee on Agriculture and Rural Development as the committee responsible and the Committee on the Environment, Public Health and Consumer Policy and the Committee on Legal Affairs and the Internal Market for their opinions (C5-0178/2002).

The Committee on Agriculture and Rural Development had appointed Jean-Claude Fruteau rapporteur at its meeting of 17 April 2002.

It considered the Commission proposal and the draft report at its meetings of 19 June, 1 October and 5 November 2002.

At the last meeting it adopted the draft legislative resolution by 28 votes to 0, with 4 abstentions.

The following were present for the vote: Joseph Daul, chairman; Friedrich-Wilhelm Graefe zu Baringdorf, Albert Jan Maat and María Rodríguez Ramos, vice-chairmen; Jean-Claude Fruteau (rapporteur); Gordon J. Adam, Danielle Auroi, Ioannis Averoff (for Neil Parish), Carlos Bautista Ojeda, Niels Busk, Arlindo Cunha, Christel Fiebiger, Francesco Fiori, Christos Folias, Georges Garot, Lutz Goepel, Willi Görlach, Liam Hyland, María Izquierdo Rojo, Elisabeth Jeggle, Salvador Jové Peres, Hedwig Keppelhoff-Wiechert, Heinz Kindermann, Dimitrios Koulourianos, Véronique Mathieu, Xaver Mayer, Karl Erik Olsson, Mikko Pesälä, Giacomo Santini (for Michl Ebner), Agnes Schierhuber, Dominique F.C. Souchet and Eurig Wyn (for Giorgio Celli).

The opinion of the Committee on Legal Affairs and the Internal Market is attached; the Committee on the Environment, Public Health and Consumer Policy decided on 23 May 2002 not to deliver an opinion.

The report was tabled on 6 November 2002.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Council regulation amending Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (COM(2002) 139 – C5-0178/2002 – 2002/0066(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2002) 139¹),
 - having been consulted by the Council pursuant to Article 37 of the EC Treaty (C5-0178/2002),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Agriculture and Rural Development and the opinion of the Committee on Legal Affairs and the Internal Market (A5-0375/2002),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 4. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 2 a (new)

(2a) It is necessary, in order to meet the expectations of certain producers, to extend the list of the agricultural products concerned in Annex II to this Regulation. Moreover, it is also appropriate to add to the existing Annex I to this Regulation

¹ OJ C not yet published..

foodstuffs which are composed almost exclusively of a mixture of raw materials listed in Annex I to the Treaty, have undergone only a very small amount of processing and fully meet the objectives of Regulation No 2081/92, such as the promotion of specific quality products of a given geographical origin, support for the diversification of agricultural activity, sustainable development and employment.

Justification

It is necessary, with due regard for Regulation (EEC) No 2081/92, to add to the lists annexed to the Regulation new products whose production is strongly connected with a given area, which is aimed at assisting the diversification of agricultural activity in the areas concerned and promotes employment in the region in question.

Amendment 2 Recital 4

(4) Mineral and spring waters are already the subject of Council Directive 80/777/EEC of 15 July 1980 on approximation of the laws of the Member States relating to exploitation and marketing of natural mineral waters¹. This does not have exactly the same purpose as Regulation (EEC) No 2081/92 but does provide adequate regulation at Community level. Names of mineral and spring waters should not therefore be registered and this product category should be deleted from Annex I to the Regulation. Some names have already been registered in Commission Regulation (EEC) No 1107/96 of 12 June 1996 on registration of geographical indications and designations of origin under the procedure set in Article 17 of Council Regulation (EEC) No 2081/92², and to avoid

(4) Mineral and spring waters are already the subject of Council Directive 80/777/EEC of 15 July 1980 on approximation of the laws of the Member States relating to exploitation and marketing of natural mineral waters³ [7]. This does not have exactly the same purpose as Regulation (EEC) No 2081/92 but does provide adequate regulation at Community level. Names of mineral and spring waters should not therefore be registered and this product category should be deleted from Annex I to the Regulation. Some names have already been registered in Commission Regulation (EEC) No 1107/96 of 12 June 1996 on registration of geographical indications and designations of origin under the procedure set in Article 17 of Council Regulation (EEC) No 2081/92⁴, and to avoid

¹ OJ L 229, 30.8.1980, p. 1. Directive last amended by means of Directive 96/70/EC (OJ L 299, 23.11.1996, p. 26).

² OJ L 148, 21.6.1996, p. 1. Regulation last amended by means of Regulation (EC) No 2703/2000 (OJ L 311, 12.12.2000, p. 25).

³ OJ L 229, 30.8.1980, p. 1. Directive last amended by means of Directive 96/70/EC (OJ L 299, 23.11.1996, p. 26).

⁴ OJ L 148, 21.6.1996, p. 1. Regulation ... Regulation (EC) No 2703/2000 (OJ L 311, 12.12.2000, p. 25).

any injury there should be a **five-year** transition period after which these names will no longer be on the register specified in Article 6(3) of the latter.

any injury there should be a **ten-year** transition period after which these names will no longer be on the register specified in Article 6(3) of the latter.

Justification

In the light of the arguments the Commission has advanced, its proposal to remove mineral waters and spring waters from the scope of the Regulation may be approved, but the proposed transitional period needs to be longer, so that the economic operators concerned can take appropriate action.

Amendment 3 Recital 7

(7) If after showing good reason a group or a natural or legal entity wishes to give up the registration of a geographical indication or denomination of origin it should be deleted from the Community register.

(7) If after showing good reason a group or a natural or legal entity wishes to give up the registration of a geographical indication or denomination of origin it should be deleted from the Community register. ***Any new registration of that name as geographical indication, denomination of origin or trademark shall be prohibited during a period of five years.***

Justification

To abolish the practice of selling protected denominations to competitors and to avoid conflicts between trademarks and geographical indications, it should be clarified that cancelled registrations are not re-attributable during a period of five years.

Amendment 4 ARTICLE 1, PARAGRAPH 1

Article 1, paragraph 1, second subparagraph (Regulation (EEC) No 2081/92)

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 1493/1999 on the common organisation of the market in wine.

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 1493/1999 on the common organisation of the market in wine. ***The Regulation shall also apply to products***

derived from tobacco which are typical of a given area.

Justification

It must be specified that the Regulation also applies to products derived from tobacco, and Annex II must therefore be amended appropriately. Encouragement should be given to the production of quality tobacco which finds a ready market and which is used for traditional products typical of a given area ('Tuscan cigars', for example).

Amendment 5

ARTICLE 1, PARAGRAPH 1

Article 1, paragraph 1, third subparagraph (Regulation (EEC) No 2081/92)

From the date of entry into force of this Regulation, mineral waters shall no longer be covered by Regulation (EEC) No 2081/92. As a result, at the end of a transitional period of **five years** from the date of entry into force of this Regulation, names relating to mineral waters already registered shall be removed from the register provided for in Article 6(3) of Regulation (EEC) No 2081/92.

From the date of entry into force of this Regulation, **natural** mineral waters **and spring waters** shall no longer be covered by Regulation (EEC) No 2081/92. As a result, at the end of a transitional period of **10 years** from the date of entry into force of this Regulation, names relating to **natural** mineral waters **and spring waters** already registered shall be removed from the register provided for in Article 6(3) of Regulation (EEC) No 2081/92.

Justification

Apart from the more specific reference to natural mineral waters and spring waters, which is intended to avoid any risk of confusion, it is appropriate to extend the transitional period, but not for as long as proposed by the rapporteur.

Amendment 6

ARTICLE 1, PARAGRAPH 1a (NEW)

Article 2, paragraph 2, subparagraph (a), second indent (Regulation (EEC) No 2081/92)

- 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;

- 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 (**and, where appropriate, the packaging**) of which take place in the defined geographical area;

Justification

Certain producers who employ European geographical indications have decided to make it compulsory for their products to be packaged in the production area, so as to make it easier for checks to be carried out and thus to provide consumers with a full guarantee regarding the origin and the quality of products. Packaging is a very importance stage in the production process, since it can alter the nature of a product if it is not done properly. It does in fact involve a change and it constitutes a stage in the manufacture of a product (slicing, grating, etc.) which requires a good knowledge of the product's inherent characteristics, and also skill and professionalism. It would also enable people seeking recognition of a designation to remain in their place of origin. This would be of clear economic benefit on account of (amongst other things) the obvious added value.

Furthermore, in order to prevent (regrettably frequent) instances of fraud, packaging at source enables stringent checks to be carried out on the products packaged. Such checks provide consumers with the best guarantees regarding product quality and traceability.

Amendment 7

ARTICLE 1, PARAGRAPH 1c (NEW)

Article 4, paragraph 2, subparagraph (i)a (new) (Regulation (EEC) No 2081/92)

(i)a where appropriate, the decision by the right holder to have packaging operations carried out solely in the production area in order to safeguard the factors which justify the link referred to in subparagraph (f).

Justification

Some PDO and PGI producers have deliberately decided to make it compulsory for their products to be packaged in the production area, so as to provide consumers with a full guarantee regarding product origin and product quality.

Packaging constitutes an important stage in the production process since, if it is not done properly, it may alter the nature of the product. Furthermore, packaging carried out at source helps to prevent possible fraud by means of direct checks which provide consumers with a full guarantee regarding quality and traceability.

In the interests of clarity, an addition should also be made to the text of Article 2(2)(a).

Amendment 8

ARTICLE 1, POINT 2

Article 5, paragraph 5, final subparagraph (Regulation (EEC) No 2081/92)

The last subparagraph of Article 5(5) is deleted.

Before forwarding the application for registration, and if the application concerns a name that also indicates a border geographical area or a traditional name connected with that geographical area situated in another Member State or a third country recognised under the procedure provided for in Article 12(3), the Member State to which the application is made shall consult the country in question.

If, following the consultations, the groups or natural or legal persons concerned in the said countries agree on an overall solution, the countries concerned may submit a joint application for registration to the Commission.

Specific rules may be adopted in accordance with the procedure laid down Article 15.

Justification

It is necessary here to be more specific as regards traditional names connected with a geographical area.

Amendment 9

ARTICLE 1, POINT 4

Article 10, paragraph 3, final subparagraph (Regulation (EEC) No 2081/92)

To be approved by a Member State for the purposes of this Regulation, private bodies must meet the requirements set in the latest version of standard EN 45011 in force.

To be approved by a Member State for the purposes of this Regulation, private bodies must meet the requirements set in the latest version of standard EN 45011 in force.

Standard EN 45011 or the applicable version thereof, the requirements of which must be met by inspection bodies in order to be approved, shall be drawn up or amended in accordance with the procedure laid down in Article 15.

In the case of the third countries referred to in Article 12(3), the equivalent standard or the applicable version thereof, the requirements of which must be met by inspection bodies in order to be approved, shall be drawn up or amended in accordance with the procedure laid down in Article 15.

Justification

The purpose of this amendment is twofold: firstly, to strengthen equivalence and reciprocity requirements in third countries and, secondly, to amend the standard concerned.

Amendment 10

ARTICLE 1, PARAGRAPH 6

Article 11a (Regulation (EEC) No 2081/92)

The Commission may cancel registration of a name ***in response to a duly substantiated application by the group concerned***

In accordance with the procedure laid down in Article 15, the Commission may

transmitted by the country that submitted the original application for registration.

cancel registration of a name *in the following cases:*

1. Where the Member State which forwarded the original application for registration verifies that a request for cancellation transmitted by the group or a natural or legal person concerned is justified and forwards it to the Commission,

2. For duly justified reasons, where compliance with the conditions set out in the specification for an agricultural product or foodstuff which has a protected name would no longer be guaranteed.

The registered name shall be blocked for new applications and for trademarks for a period of five years after the date of publication of the cancellation in the Official Journal.

Specific rules may be adopted in accordance with the procedure laid down in Article 15 .

Notice of cancellation shall be given in the Official Journal of the European Communities.

Notice of cancellation shall be given in the Official Journal of the European Communities.

Justification

To abolish the practice of selling protected denominations to competitors and to avoid conflicts between trademarks and geographical indications, it should be clarified that cancelled registrations are not re-attributable during a period of five years.

Amendment 11

ARTICLE 1, POINT 9

Article 12, paragraph 3 (Regulation (EEC) No 2081/92)

3. The Commission *may* examine, in accordance with the procedure laid down in Article 15 and at the request of the country concerned, whether a third country satisfies the equivalence conditions within the meaning of paragraph 1 above as a result of its national legislation. Where the Commission decision is in the affirmative, the procedure set in Article 12a shall apply.

3. The Commission *shall* examine, in accordance with the procedure laid down in Article 15 *and on the basis of a report,* and at the request of the country concerned, whether a third country satisfies the equivalence conditions *and offers the guarantees of reciprocity* within the meaning of paragraph 1 above as a result of its national legislation. Where the

Commission decision is in the affirmative, the procedure set in Article 12a shall apply.

Justification

A report would make it possible to analyse, in full knowledge of the facts, the guarantees offered as regards equivalence and reciprocity by the third country requesting EU recognition of one or more designations of origin, and to obtain a better understanding of how the latter are actually used. The report would also make it possible to strengthen inspections by the Commission.

Amendment 12

ARTICLE 1, POINT 9

Article 12a, paragraph 9 (Regulation (EEC) No 2081/92)

1. In the case provided for in Article 12(3), if a group or a physical or legal entity as referred to in Article 5(1) and (2) in a third country wishes to have a name registered under this Regulation it shall send a registration application to the authorities in the country in which the geographical area is located. Applications must be accompanied by the specification referred to in Article 4 for each name.

1. In the case provided for in Article 12(3), if a group or a physical or legal entity as referred to in Article 5(1) and (2) in a third country wishes to have a name registered under this Regulation it shall send a registration application to the authorities in the country in which the geographical area is located. Applications must be accompanied by the specification referred to in Article 4 for each name.

Before forwarding the application for registration, and if the application concerns a name that also indicates a border geographical area, or a traditional name connected with that geographical area situated in a Member State of the European Union, the third country to which the application is made shall consult the Member State in question.

If, following the consultations, the groups agree on an overall solution, the countries concerned may submit a joint application for registration to the Commission.

Specific rules may be adopted in accordance with the procedure laid down in Article 15.

Justification

It is necessary here to increase protection for geographical indications by adding a reference to names indicating border geographical areas.

Amendment 13

ARTICLE 1, PARAGRAPH 9

Article 12a, paragraph 2, subparagraph (b) (Regulation (EEC) No. 2081/92)

(b) a declaration that the structures provided for in Article 10 are established on its territory, and

(b) a declaration that the structures provided for in Article 10 are established on its territory, and ***a description of the monitoring system designed to provide the protection referred to in Article 13(1), and***

Justification

This amendment is needed in order to bring into line with the rest of the Regulation the requirement for third countries to carry out checks pursuant to new Article 13(1)(c).

Amendment 14

ARTICLE 1, PARAGRAPH 10, (-a)

Article 13, paragraph 1a (new) (Regulation (EEC) No 2081/92)

1(a) The Commission shall also set up a databank relating to all PDOs and PGIs which are already registered or in respect of which an application for registration has been lodged and containing the relevant production specifications. The databank shall be made available in particular to all national authorities responsible for carrying out checks and to the national and Community bodies responsible for registering trademarks.

Justification

It is obvious that the current system of checks is not sufficiently effective, for which reason checking systems must be harmonised, the activities of all national and EU bodies must be coordinated and the Member States must be given greater responsibility.

Amendment 15

ARTICLE 1, PARAGRAPH 10, (-a)

Article 13, paragraph 1(b) (new) (Regulation (EEC) No 2081/92)

1(b) Every two years the EU Member States and the third countries recognised in accordance with the procedure laid down in Article 12(3) shall draw up a report on the checks carried out on the basis of the Community reference framework or, in the case of third countries, the equivalent recognised system. The report must in particular be concerned with investigations carried out on an own-initiative basis or at the request of the interested parties, and also the consequent action taken. The Member States' reports shall be forwarded to the Commission which, in its turn, shall draw up and publish a summary report at Community level.

Justification

The checking system is not sufficiently effective to provide, within Community territory, the protection referred to in Article 13(1) against exploitation of a reputation, misuse, false or misleading labelling, etc. Checking systems must therefore be harmonised, the activities of all relevant and EU bodies must be coordinated and the Member States must be given greater responsibility.

Amendment 16

ARTICLE 1, PARAGRAPH 13a

Annex I (Regulation (EEC) No. 2081/92)

- | | |
|---|--|
| - Beer, | - Beer, |
| - <i>Natural mineral waters and spring waters,</i> | - Beverages made from plant extracts, |
| - Beverages made from plant extracts, | - Bread, pastry, cakes, confectionery, |

- Bread, pastry, cakes, confectionery, biscuits and other baker's wares,
- Natural gums and resins

- biscuits and other baker's wares,
- Natural gums and resins,
- ***Wine vinegars,***
- ***Vinegar made from the Corinthian grape***

Justification

The aim of the Regulation is to facilitate the inclusion of new products with specific characteristics distinguished by their geographical origin. Quality products with special characteristics are very often from disadvantaged areas for which a recognised trademark is an important means of promoting economic and social development and of maintaining their rural population. The proposal to include the Corinthian grape is fully in keeping with the principles of the Regulation.

Amendment 17

ARTICLE 1, PARAGRAPH 13a (new)
Annex I (Regulation (EEC) No 2081/92)

- ***Mustard paste,***
- ***Pasta which has not been cooked, stuffed or otherwise prepared (composed almost exclusively of simple products listed in Annex I to the Treaty: over 20 % egg and durum wheat meal content).***

Justification

The aim is, with due regard for the Regulation, to include new products, the production of which is strongly connected with a given area. Enhancing the standing of such products by means of an identifiable label could genuinely help to boost economic and social development in the regions concerned.

Amendment 18

ARTICLE 1, POINT 13a (new)
Article 13a (new) (Regulation (EEC) No 2081/92)

- ***Berry wine or beverages produced from berries by means of fermentation other than cider and perry.***

Justification

The aim is, with due regard for the Regulation, to include new products, the production of which is strongly connected with a given area. Enhancing the standing of such products by means of an identifiable label could genuinely help to boost economic and social development in the regions concerned. An indent concerning berry wines is inserted.

Amendment 19

(Does not apply to the English version.)

Amendment 20

Annex II (Regulation (EEC) No 2081/92)

Agricultural products referred to in Article
1(1)
– Hay
- Essential oils.

Agricultural products referred to in Article
1 (1)
- Hay
– Essential oils
- **Wool**
- **Osier.**

Justification

The aim is, with due regard for the Regulation, to include new products, the production of which is strongly connected with a given area. Enhancing the standing of such products by means of an identifiable label could genuinely help to boost economic and social development in the regions concerned.

Amendment 21

ARTICLE 1, PARAGRAPH 13a (new)
Annex II (Regulation (EEC) No 2081/92)

- products derived from tobacco

Justification

This Regulation should also be extended to products derived from tobacco in order to encourage the production of quality tobacco.

EXPLANATORY STATEMENT

1 Introduction

On 14 July 1992 the Council adopted Regulation (EEC) No 2081/92 improving the protection of designations of origin for agricultural products intended for human consumption, which was subsequently amended by Regulation (EC) No 535/97.

This Commission proposal to the Council is aimed at bringing Regulation (EEC) No 2081/92 into line with the agreement on trade-related aspects of intellectual property rights (TRIPS Agreement).

The Regulation is aimed at helping to realise the potential of rural areas, as it enables interested producers and/or processors to obtain protection at Community level, by means of registration, for the geographical name of a product which has certain specific characteristics. It may be assumed that this uniform Community approach helps ensure fair competition between the producers of products bearing the relevant indications, which enhances the credibility of the products in the eyes of consumers. In the context of this regulation, a distinction should be made between *Protected Designations of Origin (PDOs)* and *Protected Geographical Indications (PGIs)*.

A *PDO* is the name of an agricultural product or foodstuff whose quality or characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and whose production, processing and preparation take place in the defined geographical area. Two elements must therefore coexist: a defined geographical area and recognition of a certain know-how. To help give consumers something by which to orient themselves, PDOs could perhaps be replaced by equivalent traditional acronyms (French AOC, Italian DOC, Spanish DO).

In the case of *PGIs*, the connection with a given region exists at *at least* one of the following stages: production, processing or preparation.

2 Changes proposed by the Commission

(a) *Scope*

Regulation (EEC) No 2081/92 applies to the foodstuffs and agricultural products listed in its Annexes I and II. It does not cover viticultural products or spirit drinks. Nevertheless, it was deemed appropriate in the proposal to plug the gap in protection arrangements for potentially eligible geographical names in the case of wine vinegars. On the other hand, the Commission is proposing that mineral waters be removed from the scope of the Regulation because the names in question do not lend themselves to registration. The Commission considers that Council Directive 80/777/EEC lays down adequate rules for such waters at Community level and is proposing a five-year transitional period for the removal of already registered waters from the scope of the regulation.

(b) *Homonyms*

To avoid the risk of confusion, further detail has been added in relation to the 1992 regulation.

(c) *Objection procedure*

In keeping with the TRIPS Agreement, the Commission is proposing to make it possible for nationals of WTO member countries to object to the registration of a PDO or PGI, whereas formerly only EU nationals could do so. A procedure has thus been created parallel to that which applies to EU nationals.

(d) *Cancellation of a registration*

It is proposed to incorporate the possibility of cancelling registrations where holders so wish.

(e) *Application to products originating in a third country, subject to reciprocity and equivalence requirements being met*

The Commission is proposing a special procedure for registering products originating in third countries on the Community market. In return, third countries will, in accordance with the reciprocity principle, have to afford equivalent protection to protected Community names. Moreover, in order that products from third countries can be recognised at EU level, the third countries concerned must be able to give guarantees equivalent to those required in the Union.

(f) *Conflicts between geographical indications and trademarks*

Should a conflict arise between trademarks and geographical indications, the reference date will be the date of submission of the application for registration of the PGI or PDO, as is the case for registered trademarks, instead of the date of the notice.

(g) *Deletion of the simplified procedure*

The Commission is proposing to scrap this procedure, as it does not provide for a right of objection.

3 General context

Your rapporteur considers that, in view of the recent crises that have shaken our agricultural markets, there is an urgent need to reconcile the production-oriented policy, which was justified in the post-war period but which has caused serious excess production problems brought to light by FMD and the BSE crisis in particular, and environmental protection, which is central to the quality policy of which this regulation forms part.

According to the conclusions of the Berlin European Council, CAP reform is to ensure that 'agriculture is multifunctional, sustainable, competitive and spread throughout Europe, including regions with specific problems, that it is capable of maintaining the countryside, conserving nature and making a key contribution to the vitality of rural life, and that it responds to consumer concerns and demands as regards food quality and safety, environmental protection and the safeguarding of animal welfare'.

Your rapporteur considers the promotion of quality products, and hence their protection at both Community and global levels, to be part of this ambitious objective and therefore recalls that the proposals for the revision of Agenda 2000 provide for the inclusion in the second pillar of a new chapter on quality.

The need to achieve an equitable balance in the context of regional planning and improved economic and social cohesion in the European Union can, without any doubt, only be met by

upholding the European model of agriculture: agriculture which provides a link between town and country, develops the potential of our regions and local produce and puts to good use the know-how gained from traditional farming practices. We must all realise that agriculture has to be subjected to different development criteria from those which apply to industry. The quality policy must be part of a more comprehensive approach for switching Community funds for the CAP from the first to the second pillar.

Your rapporteur also wishes to stress that quality products with particular characteristics very often come from less-favoured areas whose economic and social development could be given a huge boost by the use of identifiable labels. As what the regulation calls 'traditional' products are still marginal in terms of quantity, it is pleasing that applications for registration have increased in recent years. This recent trend shows that our farmers view the policy of enhancing the standing of local produce as a means of increasing farm income. The inclusion of new products in Annex II of the regulation should be encouraged if they conform to strict specifications and are fully compatible with the philosophy underlying this regulation.

The quality policy, framed by strict rules on production, must be accompanied by a flawless labelling and traceability policy so that Europe's consumers can make choices without possible confusion. Against the background of growing globalisation, it is therefore necessary to protect the exclusive character of PGIs and PDOs so that they continue to be synonymous with quality and to vigorously oppose any attempt to cause confusion amongst consumers.

4 Justification for amendments

Your rapporteur considers that, overall, the Commission's proposal for amending Regulation (EEC) No 2081/92 deserves to be supported, as will help us achieve our objectives. The proposed amendments fall into the following three main categories:

- Extension of the transitional period for the removal of natural mineral waters and spring waters. Whilst the Commission's reasons are well-founded, account should be taken of the economic operators concerned. Your rapporteur is therefore proposing that the transitional period for removing such products be extended from 5 to 15 years.
- Registration of new products. It would be a good idea to use this amendment to enable new products such as mustard pastes, pastas, wool and osier to be registered, as the link between all these products and their area of production is a strong one. Also, such products foster rural development and their registration could be an extremely favourable factor as regards employment in the regions concerned.
- Applicability to products from third countries. Your rapporteur takes the view, in the context of the TRIPS Agreement, that there is good reason to adapt this Regulation so that it applies to third countries. However, it is important that equivalence and reciprocity requirements be strictly applied. He is therefore proposing that a report assessing compliance with such requirements be drawn up each time a third country applies for EU recognition of one or more designations of origin.

10 September 2002

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Agriculture and Rural Development

on the proposal for a Council regulation amending Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs
(COM(2002) 139 – C5-0178/2002 – 2002/0066(CNS))

Draftsman: Enrico Ferri

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Enrico Ferri draftsman at its meeting of 16 April 2002.

It considered the draft opinion at its meetings of 16 April and 10 September 2002.

At the last meeting it adopted the following amendments by 16 votes to 0, with 8 abstentions.

The following were present for the vote: Giuseppe Gargani (chairman), Willi Rothley (vice-chairman), Ioannis Koukiadis (vice-chairman), Bill Miller (vice-chairman), Enrico Ferri (draftsman), Paolo Bartolozzi, Maria Berger, Ward Beysen, Francesco Fiori, Janelly Fourtou, Evelyne Gebhardt, Fiorella Ghilardotti, José María Gil-Robles Gil-Delgado, Malcolm Harbour, Hans Karlsson, Piia-Noora Kauppi (for The Lord Inglewood), Kurt Lechner, Klaus-Heiner Lehne, Neil MacCormick, Toine Manders, Hans-Peter Mayer (for Rainer Wieland), Arlene McCarthy, Manuel Medina Ortega, Angelika Niebler (for Joachim Wuermeling), Anne-Marie Schaffner, Marianne L.P. Thyssen, Diana Wallis, Stefano Zappalà and Pasqualina Napolitano (for Carlos Candal, pursuant to Rule 153(2)).

SHORT JUSTIFICATION

The purpose of the proposal for a regulation is to amend certain provisions of Regulation (EEC) No 2081/92, which entered into force on 26 July 1993 and has already been amended by Council Regulation (EEC) No 535/97. The regulation in question enables producers and/or processors to benefit from a voluntary Community-wide protection system entitling them to register designations of origin or geographical product indications for their exclusive use.

A number of practical adjustments need to be made to Regulation (EEC) No 2081/92. In addition, rules need to be laid down to enable the regulation to interact with the World Trade Organisation (WTO) TRIPS Agreement and to protect given products originating from non-member countries on a reciprocal basis.

The proposal for a regulation introduces the following changes:

- Wine vinegars have been encompassed within the scope of the regulation (Article 1). They were initially excluded because they are wine-sector products. However, they also lie outside the legal protection afforded by the legislation on wine and spirit drinks.
- Mineral and spring waters will no longer be protected under the regulation. They were initially included but have given rise to numerous problems such as the identical names used to denote waters of different kinds or the use of invented or inappropriate names. To simplify the registration system and avert disputes, the Commission therefore considers it desirable to exclude this product category, which will not, however, be totally deprived of protection, because it is already covered by Council Directive 80/777/EEC of 15 July 1980.
- A procedure has been laid down to resolve the conflicts that might arise when a PDO or PGI registration for a product is at variance with a trade mark registration for a product of the same type (Article 14). Furthermore, the reference date will be changed from the publication date to the date of submission of the registration application.
- Provision has been made to resolve problems arising from requests to register names written or pronounced in the same way (homonyms), given that Regulation (EEC) No 2081/92 does not incorporate any clear-cut dispute settlement rules.
- The objection procedure referred to in Article 7 of Regulation (EEC) No 2081/92 is to be extended to apply to nationals of WTO member countries, assuming that they have a legitimate interest in EU territory (Article 12d). This arrangement meets the obligation deriving from Article 22 of the TRIPS Agreement.
- Registration of a name may be cancelled if the holders of the protected designation of origin (PDO) or protected geographical indication (PGI) make a duly substantiated request to that effect.
- Regulation (EEC) No 2081/92 will also apply to agricultural products or foodstuffs originating in a non-member country, on a basis of reciprocity and under equivalence conditions, without prejudice to the international agreements in force.
- The simplified procedure is to be abolished because it does not provide for any right of objection and consequently does not guarantee the necessary legal certainty and transparency.

Other formal clarifications relate to the version of standard EN 45011 applying to inspection bodies (Article 10), the need to publish a decision cancelling registration of a name

(Article 11), and, lastly, adjustment of the comitology procedure in line with the new Decision 1999/468/EC (Article 15).

AMENDMENTS

The Committee on Legal Affairs and the Internal Market calls on the Committee on Agriculture and Rural Development, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1

ARTICLE 1, PARAGRAPH 1 A (NEW)

Article 2, paragraph 1 (Regulation (EEC) No 2081/92)

***1a. Article 2(1) is replaced by:
“Community protection of designations of origin and of geographical indications, whether traditional or otherwise, of agricultural products and foodstuffs shall be obtained in accordance with this Regulation”***

Justification

When agri-foodstuffs are viewed as a rapidly evolving sector, registering new PDOs and PGIs may become a very attractive option. It would therefore be desirable to point out that registration need not necessarily depend on any distinctive tradition epitomised by the form of production of the products concerned.

Or. it

Amendment 2

ARTICLE 1, PARAGRAPH 1 B (NEW)

Article 2, paragraph 2, points (a) and (b)

***1b. Article 2(2)(a) and (b) are replaced by:
“(a) ‘designation of origin’: means the***

¹ OJ C 181, 30.7.2002, p. 275.

name of a region, a specific place, even where under the jurisdiction of different administrative authorities, or, in exceptional cases, a country used to describe an agricultural product or a foodstuff:

*– originating in that region, specific place, or country, and
– 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 the name of a region, a specific place, even where under the jurisdiction of different administrative authorities, or, in exceptional cases, a country used to describe an agricultural product or a foodstuff:

*– originating in that region, specific place or country, and
– which possesses a specific quality, reputation or other characteristics attributable to that geographical origin, and the production and/or processing and/or preparation of which take place in the defined geographical area.”*

Justification

It often happens in practice that a given geographical area spans the territory of more than one local administrative area. This possibility should therefore be explicitly mentioned. See also the justification for Amendment 3.

Amendment 3
ARTICLE 1, PARAGRAPH 1 C (NEW)

Article 3, paragraph 2 (Regulation (EEC) No 2081/92)

1c. The second paragraph of Article 3 is deleted.

Justification

Under the current legislation a PDO or PGI product cannot be registered when an existing plant variety or animal breed has already been registered with the Community office responsible for seeds and propagating material and is designated by the same geographical term. This incompatibility poses an obstacle to PDO or PGI certification applications and could give rise to deliberate attempts to prevent them being granted.

Amendment 4
ARTICLE 1, PARAGRAPH 1d (NEW)
Article 3, paragraph 2, subparagraph 2 (new) (Regulation (EEC) No 2081/92)

***1d. The following subparagraph 2 is added after Article 3(2):
“There is no danger of misleading the public as to the true origin of a product when the name to be registered as a designation of origin or geographical indication is a geographical name traditionally associated with the territory of origin of the product to which the designation of origin (or geographical indication) refers. In such cases, therefore, the prohibition set out in paragraph 1 of this Article shall not apply.”***

Justification

The prohibition set out in Article 3(1) would be unnecessary if the geographical term used were closely associated with the product in question.

Or. it

Amendment 5

ARTICLE 1, PARAGRAPH 1 E (NEW)

Article 5, paragraph 5 (Regulation (EEC) No 2081/92)

1e. The first subparagraph of Article 5(5) is replaced by:

“The Member State shall check as regards the merits that the application is justified and that the complete documents have been supplied for the purposes of the specification referred to in Article 4.”

Justification

A clear distinction should be made between assessment of the merits of an application, which is the responsibility of the Member State concerned, and the formal investigation by the Commission as provided for in Article 6(1). This amendment arises from the current de facto situation, in which the Commission has to communicate directly with applicants after they have submitted their applications, the reason often being that the relevant authorities in the Member States have failed to consider the applications in sufficient depth. Member States should not send applications to the Commission without the proper supporting documents. Where necessary, they should ask applicants to supply further documents. This arrangement would lighten the workload of the Commission, which would be able to confine its investigations to the formal level, and avoid the needless delays resulting from the dealings between the Commission and an applicant following an application, which now occur in practice but do not imply acceptance of the merits of the application.

Amendment 6

ARTICLE 1, PARAGRAPH 1f (NEW)

Article 5, paragraph 5, subparagraph 2 (new)

1f. The following subparagraph is inserted after the first subparagraph of

Article 5(5):

“If the application relates to a name denoting neighbouring geographical areas under the jurisdiction of different administrative authorities, those authorities must be consulted before any decision is taken in order to ensure that each party can demonstrate a legitimate economic interest and to allow the two or more administrative authorities involved and the Member State to be heard with a view to determining the name to be given to the geographical designation in question.”

Justification

When a product to be registered is associated with a single geographical area consisting, however, of several local administrative areas, all the parties, and not just the applicant, should be involved in the procedure in question so as to enable agreement to be reached on the name to be given to the product to which the registration procedure relates. Cases have occurred in practice in which one or more of the parties concerned, to the extent that they had a legitimate economic interest, considered themselves to have been wronged. Situations of this kind should therefore be avoided.

Amendment 7

ARTICLE 1, PARAGRAPH 1g (NEW)

Article 4, paragraph 2, point (h) (Regulation (EEC) No 2081/92)

1g. Article 4(2)(h) is replaced by:

“(h) the specific labelling details relating to the indication PDO or PGI, whichever is applicable, or the equivalent traditional national indications, including where appropriate the conditions of use when the product is used as an ingredient in a processed product;”

Justification

The existing legislation does not specify whether it is possible to regulate the use of a PDO or PGI product as an ingredient in a processed product or under what arrangements PDO and PGI products may be identified and the Community logo affixed to the packaging of the processed products concerned. This point is highly significant as regards fruit and vegetables intended for consumption in the processed state (jams, canned products, etc.). A reference on the label to PDO or PGI products would constitute a guarantee of quality for consumers.

Or. it

Amendment 8

ARTICLE 1, PARAGRAPH 2a (NEW)

Article 5, paragraph 5a (Regulation (EEC) No 2081/92)

2a. The following paragraph 5a is added after Article 5(5):

“5a. If the application fails to satisfy the substantive requirements laid down in this Regulation, the Member State shall within two months, where it thinks fit, request the group or natural or legal person applying for registration to supply further documents.”

Justification

See justification for Amendment 5.

Amendment 9

ARTICLE 1, PARAGRAPH 2 B (NEW)

Article 5, paragraph 5b (Regulation (EEC) No 2081/92)

2b. The following paragraph 5b is added after Article 5(5a):

“5b. If the Member State considers the requirements of this Regulation to have been satisfied, it shall forward the

application to the Commission within a reasonable time, together with the specification referred to in Article 4, any other documents on which it has based its assessment of the merits, and any additional documents requested from and supplied by the applicant.”

Justification

See justification for Amendment 5.

Amendment 10

ARTICLE 1, PARAGRAPH 3a (NEW)

Article 6, paragraph 1 (Regulation (EEC) No 2081/92)

***3a. Article 6(1) is replaced by:
“1. Within not more than six months the Commission shall verify, by means of a formal investigation, whether the registration application includes all the particulars provided for in Article 4 and, where applicable, the additional documents referred to in Article 5 of this Regulation. It shall inform the Member State concerned of its findings and only where it thinks fit request further clarifications from the applicant and the Member State.”***

Justification

See justification for Amendment 5.

Amendment 11

ARTICLE 1, PARAGRAPH 3b (NEW)

Article 8 (Regulation (EEC) No 2081/92)

3b. Article 8 is replaced by:

“Article 8

The indications PDO, PGI or equivalent traditional national indications may appear only on agricultural products and foodstuffs that comply with this Regulation and on foodstuffs containing PDO or PGI products as ingredients, in accordance with the conditions set out in the product specification referred to in Article 4.”

Justification

The existing legislation does not specify whether it is possible to regulate the use of a PDO or PGI product as an ingredient in a processed product or under what arrangements PDO and PGI products may be identified and the Community logo affixed to the packaging of the processed products concerned. This point is highly significant as regards fruit and vegetables intended for consumption in the processed state (jams, canned products, etc.). A reference on the label to PDO or PGI products would constitute a guarantee of quality for consumers.

Or. it

Amendment 12

ARTICLE 1, PARAGRAPH 6

Article 11 a (Regulation (EEC) No 2081/92)

“Article 11a

The Commission may cancel registration of a name in response to a duly substantiated application by the group concerned transmitted by the country that submitted the original application for registration.

Notice of cancellation shall be given in the Official Journal of the European Communities.”

“Article 11a

The Commission may cancel registration of a name in response to a duly substantiated application by the group concerned ***or a natural or legal person concerned*** transmitted by the country that submitted the original application for registration.

Notice of cancellation shall be given in the Official Journal of the European Communities.”

Justification

Given that a natural or legal person or a group with an interest in the matter can apply for registration, the same parties should likewise be entitled to apply for cancellation should the case arise.

Amendment 13

ARTICLE 1, PARAGRAPH 10 Ca (NEW)

Article 13, paragraph 6 (new) (Regulation (EEC) No 2081/92)

c(a) The following paragraph 6 is added:

“The Commission shall be authorised to adopt the necessary measures to facilitate coordination of the steps taken by producer organisations or groups with a view to monitoring and preventing counterfeiting and unlawful imitations adversely affecting the designations of origin and geographical indications protected by this Regulation.

In particular, the Commission shall lay down the detailed rules with which Member States must comply when carrying out inspections on their territory to combat the practices specified in Article 13(1).

The Commission shall also set up a data bank covering all the PDOs and PGIs which have been registered or whose registration has been requested, together with the corresponding product specifications. The data bank shall be made accessible to all national authorities designated to carry out inspections and to the national and Community bodies responsible for registering trademarks.

Every two years Member States of the European Union and third countries recognised under the procedure set out in Article 12(3) shall draw up a report on the inspection activities carried out in accordance with the Community frame of reference or, in the case of third countries, the system recognised to be equivalent. The

reports of the Member States shall be sent to the Commission, which shall draw up and publish a Community-wide consolidated report.”

Justification

This amendment would require the Commission to bring constant scrutiny to bear on any instances of counterfeiting and unlawful imitations and, in so doing, to perform a useful coordinating role for the benefit of the internal market.

Or. it

Amendment 14

ARTICLE 1, PARAGRAPH 11b

Article 14, paragraph 2 (Regulation (EEC) No 2081/92)

Paragraph 2 is replaced by:

“2. With due regard to Community law, a trademark the use of which engenders one of the situations indicated in Article 13 and which has been 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 in the country of origin or the date of submission to the Commission of the application for registration of the designation of origin or geographical indication, 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/EEC of 21 December 1998 to approximate the laws of the Member States relating to *trademarks* and/or Council Regulation (EC) No 40/94 of 20 December 1993 on the Community *trademark*.”

Paragraph 2 is replaced by:

“2. With due regard to Community law, a trademark the use of which engenders one of the situations indicated in Article 13 and which has been 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 in the country of origin or the date of submission to the Commission of the application for registration of the designation of origin or geographical indication, 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/EEC of 21 December 1988 to approximate the laws of the Member States relating to *trade marks* and/or Council Regulation (EC) No 40/94 of 20 December 1993 on the Community *trade mark*. ***This Regulation shall be without prejudice to the right accorded under the laws of the Member States and/or Council Regulation (EEC) No 40/94 of 20 December 1993 on the Community trade***

mark to bring proceedings for infringement of the right embodied in a trade mark conforming to the conditions set out in the first sentence of this paragraph on account of the use of a designation of origin or geographical indication subsequent to that trade mark, be it under the civil, administrative, or criminal law of the Member States. Infringement proceedings shall not, however, be admissible where the owner of the trademark registered previously has knowingly consented, for a period of five consecutive years, to the use of the designation of origin or geographical indication, unless the designation of origin or geographical indication was registered with criminal intent.”

Justification

When a trademark has been registered in good faith and is not considered a geographical description, it constitutes a valid private property right, the essence of which is its exclusive force, conferred by Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks and Regulation (EC) No 40/94 on the Community trade mark. To deprive a trademark owner of the exclusive right conferred by Community trademark law by obliging him to allow a similar designation of origin or geographical indication, such as is likely to cause confusion, to coexist with the trademark is tantamount to expropriation. Given that the regulation makes no provision to compensate trademark owners, such expropriation would constitute illegal confiscation.

So as not to restrict the scope of other Community legislation, especially trademark law, the owner of a previously registered trademark has to be entitled, subject to certain conditions, to object to the designation of origin or geographical indication with which the trademark is in conflict. Furthermore, the interests of those who use designations of origin or geographical indications must likewise be protected.

Exercise of the exclusive right does not necessarily mean, therefore, that a designation of origin or geographical indication should be refused in Member States where there is no conflict. This situation is similar to cases in which a Community trademark is registered in the Community as a whole when a national trademark exists. The owner of the national trademark can prevent registration of the Community trademark, but the provisions are also less restrictive to the extent that an objection to the Community trademark can be raised only in the country where there is a conflict with a national trademark. This flexible, balanced approach is being proposed in order to resolve conflicts between a designation of origin or geographical indication and a previously and legitimately registered trademark.

As far as legal certainty is concerned, trademark owners, after learning that a designation of origin or geographical indication is being used, will be able to avail themselves of the right to bring proceedings within five years.

Or. fr

Amendment 15
ARTICLE 1, PARAGRAPH 11a (NEW)
Article 14a (new) (Regulation (EEC) No 2081/92)

11a. The following Article 14a is added after Article 14

“Article 14a

Where a geographical name denoting a plant variety or animal breed is covered by one of the situations referred to in Article

13, relates to the same type of product, and has been registered in good faith before the date of submission of the application for registration of a PDO or PGI, that fact shall not preclude registration of a PDO or PGI.”

Justification

Under the current legislation a PDO or PGI product cannot be registered when an existing plant variety or animal breed has already been registered with the Community office responsible for seeds and propagating material and is designated by the same geographical term. This incompatibility poses an obstacle to PDO or PGI certification applications and could give rise to deliberate attempts to prevent them being granted.

Or. it

Amendment 16

ARTICLE 1, PARAGRAPH 12a (NEW)
Article 16a (Regulation (EEC) No 2081/92)

12a. The following Article 16a is added after Article 16:

“Article 16a

The Commission shall draw up a communication setting out the interpretation required in order to clarify the types of documents to be supplied by applicants and hence to facilitate the procedure for registering a product.”

Justification

To simplify the registration procedure and make it more accessible, a communication should be produced to assist applicants by spelling out the requirements laid down for the purposes of the specification referred to in Article 4. This would make it easier for a Member State to assess the merits of an application and ensure that the Commission would need only to check on the form.

Amendment 17
ARTICLE 1, PARAGRAPH 13
Article 17 (Regulation (EEC) No 2081/92)

13. *Article 17 is deleted.*

13. *Article 17 is replaced by:*

“Article 17

2. To avoid disparities in the treatment of names already legally protected in their country of origin at the time of issue of Regulation (EEC) No 2081/92 whose registration has been requested pursuant to Article 17 within the time limits laid down in that Article and which have not yet been registered at the time of entry into force of this Regulation, those names shall be entered in the ‘Register of protected designations of origin’ under a Council Regulation.”

Justification

The aim is to prevent names already familiar on national markets whose registration had been requested under the simplified procedure from suffering discrimination compared with names registered earlier under that procedure, which has now been abolished. The procedure concerning the various registration applications previously submitted would consequently not remain at a standstill owing to the abolition of the simplified procedure.

Or. it

Amendment 18
RECITAL 14a (NEW)

(14a) The Commission should adopt such measures as it deems most appropriate to prevent or remedy instances of counterfeiting or falsification of a registered typical product when abuse of that kind could result in unfair competition to the benefit of other producers. In practice, such actions adversely affect commercial distribution of the product within the internal market and could mislead consumers to the extent that the

product offered to them would have the same or a similar name to the registered product but would nevertheless be qualitatively different.

Justification

Obvious

Or. it

Amendment 19
RECITAL 14b (NEW)

(14b) The rules governing plant varieties, especially as regards the use of varietal descriptions, should be revised, bearing in mind that consumers could be misled as to the true origin of foodstuffs.

Justification

Obvious

Or. it