

oriGIn Report



Highlight of the month

The European Commission Single Quality Regulation

Within the framework of the reform of the quality policy, the European Commission is working on a Single Quality Regulation. Such “quality package” should include:

- a proposal of Regulation on the quality policy of agricultural products;
- a proposal of amendment of the marketing standards included in the single CMO (Regulation n°1234/2007);
- Guidelines on the certification systems;
- Guidelines on the use of PDO/PGI as ingredients in processed products (see EU issues, Policy Developments).

The Commission decided to create a single horizontal regulation on quality which will contain GIs, TSG, reserved optional terms, local agriculture and direct sells. However, this proposal only covers agricultural products and foodstuffs, but not wines and spirits, which will remain in the single CMO. Concerning GIs, the main points of the proposal are:

- The recognition of the roles and responsibilities of producers groups and interbranches (mainly in terms of promotion and legal protection of PDOs-PGIs);
- The reinforcement and clarification of the level of protection (*ex officio* clearly defined, controls of products and services, relations between trademarks and GIs);
- The reinforcement of controls all along the food chain;
- The registration procedure is shortened;

- The clarification of the roles of Member States and Groups applying for protection;
- The modification of the definition of PDO and PGI:

-The definition of the PGI is adjusted to the international definition of TRIPs,

-The definition of the PDO is modified and does not include the obligation that the production, the processing and the preparation take place in the defined geographical area. It only indicates that all the production steps must take place in the same defined geographical area.

However, the proposal does not include provisions concerning the possibility of the management of the production for the organisations in charge of the GI, which the Commission intends to address, for the time-being in the milk sector, through specific measures.

The Commission will publish a legislative proposal on 8 December. This proposal will then be discussed by the European Parliament and the Council.

International Affairs

ACTA: Conclusions of the talks

On 2nd October, the 11th and final round of the negotiations for the Anti-Counterfeiting Trade Agreement (ACTA) was concluded in Tokyo. Thanks to the efforts of oriGIn, the text refers to all intellectual property rights (IPRs) as provided for by the TRIPs Agreement, so GIs are *de facto* covered by the Agreement.

There are however a few contentious points, in particular some specific measures under the civil enforcement section which would apply only to copyright and trademark as well as a “vague” language in the border enforcement section which seems to justify discriminations among IPRs. oriGIn is in touch with various negotiators to address such concerns. In fact, while no other rounds of negotiations are scheduled, bilateral consultations are taking place to solve remaining disagreements among the parties.

Moreover, in order to enter into force, the agreement still has to be signed and ratified.

The consolidated text of ACTA is available at: http://www.oriGIn.com/images/stories/PDFs/English/Lobby/ACTA_text_after_Tokyo.pdf

oriGIn member "Kona Coffee" (USA) won the prestigious International Parmigiano-Reggiano Award

100% Kona Coffee received the Award on October 23rd at the Salone Del Gusto in Turin, Italy. oriGIn congratulates 100% Kona Coffee for this award, which rewards it for its work towards the protection of the product as well as the fight against usurpations of the name, notably from products containing only 10% original Kona coffee blended with coffee from other places, often of low quality. Such "misleading practice" is tolerated and accepted, since the State of Hawaii - which registered the certification mark "Kona Coffee" - requires only a minimum 10% of original Kona Coffee. Read more at:

http://www.slowfood.com/international/press-releases/83376/en/2010/hawaiis-kona-coffee-wins-international-parmigianoreggiano-award-/q=DF5D27?-session=query_session:5502E1BC190d2195F9tHyG3720DB

WTO: Director-General Pascal Lamy tells the members to accelerate the Doha negotiations

On 19 October 2010, Director-General Pascal Lamy, in his remarks to the Trade Negotiations Committee, said that the biggest challenge facing the WTO in the next weeks is to take an engagement to accelerate the talks and to go deeper and wider in the discussions. He specified that small group activities will continue until mid-November. Then there will be an evaluation of the progresses and they will decide for the next steps. The speech of Director-General Pascal Lamy can be read at: http://www.wto.org/english/news_e/news10_e/tnc_dg_stat_19oct10_e.htm

EU – South Korea: signature of the agreement

On 6 October, the EU Trade Commissioner Karel De Gucht, the Belgian Minister of Foreign Affairs Steven Vanackere representing the Presidency of the Council of the European Union, and the Korean Minister for Trade Kim Jong-hoon signed the Free Trade Agreement (FTA) between the EU and South Korea, during the EU-Korea

Summit. All EU Member States had signed the FTA before the summit.

The date of provisional application should be 1st July 2011, if the European Parliament gives its agreement to the FTA and if the Regulation of the European Parliament and of the Council implementing the bilateral safeguard clause of the EU-Korea FTA, to be used in the event of extreme market disturbances, is in force. The EU Member States will also have to ratify the agreement so that it can enter into force.

EU – Mercosur: Update on the negotiations

On 11-15 October, technical discussions on the trade pillar of the future Association Agreement between the EU and Mercosur took place in Brussels. Negotiations notably focused on technical barriers to trade, intellectual property rights, including GIs, and rules of origin. The next round of negotiations will take place in Brasilia between the 22nd November and the 3rd December.

The EU and the Mercosur will exchange market access offers on goods, services and public procurement during the meeting which will take place in January. Three further meetings will take place in March, May and July. EU Trade Commissioner Karel De Gucht has already affirmed that he wants to clinch a deal before the summer break in 2011.

EU – Malaysia: Launch of the negotiations of a Free Trade Agreement

Negotiations for a Free Trade Agreement between the EU and Malaysia were launched on 5 October. This agreement will cover tariffs and non-tariff barriers, as well as commitments on trade related issues such as procurement, competition and sustainable development.

Legal Affairs

ECJ: opinion of the Advocate General in the case Bayerische Brauerbund eV v. Bavaria NV

On 16 September, the Advocate General Ján Mazák gave its opinion on the Case C-120/08 Bayerischer Brauerbund eV v. Bavaria NV, 2

pending before the European Court of Justice (ECJ). Bayerischer Brauerbund is the German association which protects the interests of Bavarian brewers. It owns the name 'Bayerisches Bier' since 1958. This name is registered as PGI under EU law since 2001. Bavaria is a Dutch commercial company producing beer, which owns the trademark 'Bavaria'. Following the registration of 'Bayerisches Bier' as a PGI, Bayerischer Brauerbund brought an action before the Regional Court of Munich, seeking an order requiring Bavaria to consent to the removal of one of its international trade marks, 'Bavaria's trade mark', which is protected in Germany from 28 April 1995. Several decisions were given in favour of Bayerischer Brauerbund and appeals were made by Bavaria. Bavaria is seeking the dismissal of the action started by Bayerischer Brauerbund on the basis that its trade mark was registered before the PGI was granted. On 14 February 2008, the Federal Court of Justice of Germany decided to stop the proceedings and referred three questions to the ECJ. It seeks guidance as to how to determine whether the PGI 'Bayerisches Bier' has priority in time over the Bavaria's trade mark and thus that the protection of that trade mark can be removed. The question to be answered in this case is whether 'Bayerisches Bier', which registration was applied for under the simplified procedure but not concluded yet when 'Bavaria' started to be protected in 1995, already enjoyed protection or priority over Bavaria's trade mark. The Advocate General concludes that the date, to be taken into account to determine which the first in right is in this case, is the date when the registration of 'Bayerisches Bier' at the EU level was published, because it was the first time when any interested party would know about the registration of the name.

The opinion of the Advocate General will be submitted to the judges. They will examine the case as well as the opinion, and rule on the case. A decision of the ECJ should however not happen before next year.

Champagne: Unilever sentenced to remove from the market its shampoo "Champagne"

On 8 October, Unilever has been sentenced by the Tribunal of La Haye (The Netherlands) to remove from the market its shampoo "Andrélon Champagne", at the request of the Comité

interprofessionnel du vin de Champagne (CIVC), the Champagne interbranch Committee. The Tribunal affirmed that "the name Champagne is a protected appellation of origin, which rights have been violated by Unilever".

Unilever produced 340.000 bottles of "Andrélon Champagne" for the 70th anniversary of the shampoo brand Andrélon. The advertising campaign of this shampoo was making several references to the Champagne, notably in an advertisement showing a bottle of shampoo in a champagne bucket.

Unilever has the interdiction to continue the sale and the promotion of the shampoo "Andrélon Champagne". If it does not follow the ruling of the Tribunal, it will have to pay a fine of 5.000 euros per day to the CIVC, for a total fine of maximum 500.000 euros.

The Mexican Supreme Court reaffirmed the protection in Mexico of the Appellation of Origin "Parmigiano Reggiano"

Through a very important ruling, the Mexican Supreme Court reaffirmed the protection in Mexico of the Appellation of Origin "Parmigiano Reggiano" via the Lisbon Agreement. It also confirmed the specific nature of Appellations of Origin within intellectual property rights and that, as a result, IMPI, the Mexican Institute of Intellectual Property, incorrectly applied article 229 of the Mexican Law of Industrial Property in a specific case concerning the Appellation of Origin "Parmigiano Reggiano" and should not have rejected the request of provisional measures by the Italian Consorzio.

EU Issues

Policy Developments

GI Policy

The Commission proposed guidelines on the use of PDO/PGI as ingredients

In its Communication on the future of the quality policy, the Commission considers that it is important to develop guidelines on the use of PDO/PGI as ingredients in processed products in order to protect them from usurpations and not to mislead the consumer.

In its last draft of guidelines on the use of PDO/PGI as ingredients, discussed by the working group on quality on 7 October, the Commission makes a series of recommendations regarding the labelling of PDO/PGI used as ingredients in foodstuffs. It proposes the following points:

- a PDO/PGI can be mentioned in the list of the ingredients of a foodstuff and it can be used with the abbreviations “PDO” and “PGI”.
- One or several PDO/PGI can be mentioned in the list of ingredients in or next to the trade name, in the labelling, the presentation and the advertisement of the product in question if:
 - No other comparable ingredient has been used,
 - A PDO/PGI is used in a sufficient quantity which gives an essential characteristics to the product,
 - The percentage of product used is indicated.
- When on or several ingredients comparable to the PDO/PGI are used to make the foodstuff, the PDO and the PGI will only appear in the list of ingredients.
- The mentions, abbreviations or symbols can be used in the labelling, the trade name and the list of ingredients if it is certain that the consumer is not misled on the fact that the protection only covers the ingredient and not the processed product.

oriGIn is gathering the views of its members before taking an official position on the proposed guidelines.

Other EU Policies

Draft Communication of the Commission on the future of the CAP

The European Commission currently works on the reform of the Common Agricultural Policy (CAP). It should publish a communication before the end of the year in order to launch the institutional debate. Legislative proposals will be presented in 2011. In the draft communication, the challenges of the future CAP are food security, environment and climate change as well as territorial balance. Furthermore, the CAP will also have to contribute to the EU 2020 Strategy and to its objectives of smart, sustainable and

inclusive growth. The Commission gives three main objectives to the future CAP: viable food production, a sustainable management of natural resources and a balanced territorial development. The Commission thinks that the structure of the CAP in two pillars should be maintained but that the pillars will cover distinct competencies. The 1st pillar should contain the support annually paid to all farmers. The 2nd pillar will be the support tool for community. Direct payments will be redefined. They will be granted to active farmers and could be based on the following principles:

- A basic income support through a basic decoupled direct payment, providing a uniform level of obligatory support to all farmers in a Member State or in a region. It will be based on eligible agricultural land and the respect of cross-compliance requirements. An upper ceiling for direct payments received by large individual farms will be introduced.
- Mandatory “greening” components of direct payments will be introduced. They could take the form of generalised, non-contractual and annual agri-environmental actions, such as crop rotation.
- Promotion of the sustainable development of agriculture in areas with specific natural constraints by providing an additional income support to farmers in such areas in the form of an area-based payment with optional national top-ups.
- In order to take account of specific problems in certain regions where particular types of farming are considered particularly important, voluntary coupled support may continue to be granted, within clearly defined limits.
- The risks of loss of employment in many rural areas could be mitigated by offering to small farmers a minimum level of direct payment.
- Simplification of cross compliance rules.

Market measures will be maintained but will be simplified. The European rural development policy will also be maintained. The environment, the climate change and the innovation will have to be the guiding themes. Furthermore, a risk management toolkit should be created to deal more effectively with income uncertainties and market volatility. This toolkit would be available to Member States to address both production and

income risks. Finally, the improvement of the functioning of the food supply chain is necessary.

The Commission proposes three options for the future CAP which will have to be analysed before a final decision is taken:

1. Enhanced Status Quo: this option will be build upon the well-functioning aspects of the policy and focus on limited improvements in specific areas, as the distribution of direct payments.
2. More balanced, targeted and sustainable support: A major revision of the policy should be done in order to ensure that it becomes more sustainable, and that the balance between different policy objectives, farmers and Member States is better met. This would be done through more targeted measures.
3. Abolished market and income support: this more radical reform would move away the CAP from supports and would only focus it on environmental and climate change.

European Commission: changes in the DG Agriculture

Jean-Luc Demarty, current Director General of DG Agriculture and Rural Development, will become Director General of DG Trade. José Manuel Silva will replace him.

Following our sources, Micheal Erhart will become the new Head of Unit of the Agricultural Product Quality in the DG Agriculture, in charge of GIs.

News on GI registrations

GI Registration

- “Cappero di Pantelleria” (PGI) – 07/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:264:0009:0010:EN:PDF>
- “Prleška tünka” (PGI) – 08/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:265:0009:0010:EN:PDF>
- “Halberstädter Würstchen” (PGI) – 09/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:266:0042:0043:EN:PDF>

- “Schrobenhausener Spargel / Spargel aus dem Schrobenhausener Land / Spargel aus dem Anbaugebiet Schrobenhausen” (PGI) – 09/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:266:0044:0045:EN:PDF>
- “Suska sechlońska” (PGI) – 09/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:266:0046:0047:EN:PDF>
- “Patata della Sila” (PGI) – 09/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:266:0048:0049:EN:PDF>
- “Mogette de Vendée” (PGI) – 09/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:266:0050:0051:EN:PDF>
- “Estepa” (PDO) – 09/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:266:0052:0053:EN:PDF>
- “Φάβα Σαντορίνης (Fava Santorinis)” (PDO) – 09/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:266:0054:0055:EN:PDF>
- “Fourme de Montbrison” (PDO) – 13/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:269:0021:0022:EN:PDF>
- “Kielbasa lisiecka” (PGI) – 13/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:269:0023:0024:EN:PDF>
- “Asparago di Badoere” (PGI) – 15/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:271:0004:0005:EN:PDF>
- “Ovčí salašnický údený syr” (TSG) – 19/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:273:0005:0006:EN:PDF>

Approval of non-minor amendments

- “Fourme d'Ambert ou fourme de Montbrison” (PDO) – 13/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:269:0019:0020:EN:PDF>

Registration request

- “Aceite Campo de Calatrava” (PDO) – 23/10
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:287:0016:0019:EN:PDF>