



Brussels,  
MI/tm D(2008) 18966

**Subject: European Court of Justice Ruling in the Parmesan Case (C-132/05)  
26.2.2008**

Dear Mr. SAMPER,

Thank you for your letter of 4 March in which you raised your concerns regarding the protection of PDO and PGI following the ruling in the Parmesan case (C-132/05). As mentioned in my letter of 26 March 2008, I am writing to you after having the benefit of advice from the Commission's legal service on the implications of the judgement on the control provisions.

Two aspects of the legal framework have changed since the period considered by the "Parmesan" judgement, which was based on Regulation (EEC) No 2081/92.

- Firstly, Parliament and Council adopted Regulation (EC) No 882/2004 on official food and feed controls
- Secondly, Council adopted Regulation (EC) No 510/2006 which repealed and replaced Regulation (EEC) No 2081/92.

Due to the new provisions of Regulation (EC) No 882/2004, to which Article 10 of Regulation 510/2006 refers, in our view the legal picture changed. I can confirm that the control obligations on Member States now in force require administrative checks on compliance with the legislation on PGI and PDO for agricultural products and foodstuffs.

For example:

- Pursuant to Article 54 of Regulation (EC) No 882/2004, Member States are bound, when an instance of non-compliance has been identified, to take action on their own account in order to ensure that the operator remedies the situation.
- According to Article 55 of the same Regulation, Member States' sanctions applicable in case of non-compliance, shall be "effective, proportionate and dissuasive".

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In the light of these and other provisions of Regulation (EC) No 882/2004 it is therefore our view that Member States of the EU are bound to apply administrative controls of the obligations stemming from PDO and PGI protection. This is to be done using a risk-based approach and the planning and reporting on PDO and PGI controls is integrated within the requirements for other matters covered by the Regulation (EC) No 882/2004.

Let me further reassure you that the Member States were informed about this interpretation in relation to the control of PDO and PGI obligations.

Yours sincerely,



Jean Luc DEMARTY

Director General

Directeur Général empêché

Pros De Winne

Général Adjoint

c.c.:

Mr. Daniele Bianchi, Member of the Cabinet of the Commissioner  
Fischer Boel