



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.02.2000
COM(2000) 89 final

Proposal for a

COUNCIL REGULATION

**supplementing the Annex to Commission Regulation (EC) No 1107/96 on
the registration of geographical indications and designations of origin under
the procedure laid down in Article 17 of Regulation (EEC) No 2081/92**

(presented by the Commission)

EXPLANATORY MEMORANDUM

On 14 July 1992 the Council adopted Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.

By virtue of Article 13 of Regulation (EEC) No 2081/92, registered names are protected against any direct or indirect commercial use, any misuse, imitation or evocation, any false or misleading indication as to provenance, origin, nature or essential qualities of the product and any other practice liable to mislead the public as to the true origin of the product.

Regulation (EEC) No 2081/92 replaces national systems for the protection of designations of origin and geographical indications. Article 17 of the Regulation provides for a simplified registration procedure for designations which, at national level, are already legally protected or established by usage. Decisions on registration are adopted under the regulatory committee procedure.

Under the Regulation, in view of the economic consequences of registration, producers who would otherwise no longer be entitled to use a registered name may, subject to certain conditions, continue to use that name for up to five years after the date of publication of registration.

Member States have notified about 1 500 names to the Commission under the simplified procedure. Those notified by Italy included "Aceto balsamico e aceto balsamico tradizionale di Modena e Reggio Emilia" (PDO). Following some correspondence with the Commission departments concerned, the Italian Government asked for its initial request to be split into three separate applications, for "Aceto balsamico tradizionale di Modena" (PDO), "Aceto balsamico tradizionale di Reggio Emilia" (PDO) and "Aceto balsamico di Modena" (PGI) respectively. This request for a change in the application was accepted since it mirrored the situation obtaining in Italy when the Regulation entered into force (three decrees, each protecting a separate name).

The Commission examined the three applications for registration for conformity with Articles 2 and 4 of the Regulation. In the case of "Aceto balsamico di Modena" the Commission asked the Italian Government for additional information. Italy said that it would provide the information when a case then before an Italian administrative tribunal had been resolved. In the case of the applications relating to "Aceto balsamico tradizionale di Modena" and "Aceto balsamico tradizionale di Reggio Emilia" the Commission proposed that registration take place in accordance with the procedure provided for in the Regulation.

On 30 November 1999 the Regulatory Committee on Geographical Indications and Designations of Origin was accordingly consulted on a draft Commission Regulation providing for the registration of these two designations as PDOs.

The result was: 55 votes for, 10 against and 22 abstentions. This constituted an absence of opinion.

The voting was as follows:

For: Austria, Spain, Finland, France, Greece, Ireland, Italy, Luxembourg, Netherlands and Portugal

Against: Germany

Abstention: Belgium, Denmark, United Kingdom and Sweden.

Grounds on which delegations voted against or abstained:

- (a) Fears of major losses to German traders engaged in the marketing of vinegar known as "Aceto balsamico di Modena" (Germany);
- (b) Questioning of the legitimacy of the obligation set out in the specifications that the product must be bottled in the geographical area of production (Belgium, United Kingdom and Sweden);
- (c) Questioning of the interpretation of Article 13 of Regulation (EEC) No 2081/92 whereby there would, on the face of it, be nothing to prevent "Aceto balsamico di Modena" from being used after "Aceto balsamico tradizionale di Modena" had been registered (Denmark and Sweden).

The Commission does not share these views, for the following reasons:

- (a) One of the aims of Regulation (EEC) No 2081/92 is to secure higher incomes for producers in return for a genuine effort to improve quality, and to make available to consumers specific products with guarantees as to the method of production and origin.

If protection for registered names under the Regulation has negative economic consequences on producers who use the geographical name but do not meet the specifications, the Commission departments concerned cannot but proceed with the registration procedure to enable the Regulation to produce all its effects.

Besides, (a) and (b) of Article 13(1) (protection of registered names) notwithstanding, Member States may maintain national systems allowing the use of registered names under Article 17 for up to five years after the date of publication of registration.

- (b) The Regulation provides that, in the case of designations of origin, production, processing and preparation must take place in the defined geographical area defined. The Commission departments concerned have consistently held that certain operations, such as the bottling of balsamic vinegar, the slicing of ham and the grating of cheese, can be regarded as forming part of the preparation.

Moreover the context of the Regulation is one of industrial property, which means that, subject to compliance with Community legislation, producers may include in the specifications any requirement which they feel should be met.

Just as in the case of similar requirements applicable to several other names that have already been registered, a requirement that bottling should take place in the defined geographical area cannot, therefore, be regarded as standing in the way of registration.

- (c) The Commission would underline that an application has been submitted for the registration of "Aceto balsamico di Modena" and one for "Aceto balsamico tradizionale di Modena". If "Aceto balsamico tradizionale di Modena" is registered as a PDO, then the protection available under Article 13(1) of Regulation (EEC) No 2081/92 must apply in full, the only exceptions to this rule being those stated in Article 13(2).

It cannot simply be claimed that, on the face of it, the registration of "Aceto balsamico tradizionale di Modena" precludes the use of "Aceto balsamico di Modena". It all depends on the actual case and, in particular, the product for which the name is used and its presentation. The application of the Regulation in this specific case is a matter for the competent national authorities and, where applicable, the courts to which the matter is referred.

Since the Committee has not delivered an opinion on this draft, the Commission is submitting the proposal to the Council pursuant to the fourth paragraph of Article 15 of Regulation (EEC) No 2081/92 and is notifying Parliament thereof.

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supplementing the Annex to Commission Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Regulation (EEC) No 2081/92

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the proposal from the Commission¹,

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs², as last amended by Regulation (EC) No 1068/97³, and in particular Article 17(2) thereof,

Whereas:

- (1) Additional information was requested on certain names notified by the Member States under Article 17 of Council Regulation (EEC) No 2081/92 in order to ensure that they comply with Articles 2 and 4 of that Regulation. That additional information shows that the names do comply with those Articles. They should therefore be registered and added to the Annex to Commission Regulation (EC) No 1107/96⁴, as last amended by Regulation (EC) No 1070/1999⁵.
- (2) The Committee provided for in Article 15 of Regulation (EEC) No 2081/92 has not given a favourable opinion,

HAS ADOPTED THIS REGULATION:

Article 1

The names in the Annex to this Regulation are hereby added to the Annex to Regulation (EC) No 1107/96.

¹ OJ C
² OJ L 208, 24.7.1992, p. 1.
³ OJ L 156, 13.6.1997, p. 10.
⁴ OJ L 148, 21.6.1996, p. 1.
⁵ OJ L 130, 26.5.1999, p. 18.

Article 2

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

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

Done at Brussels,

For the Council
The President

ANNEX

OTHER PRODUCTS LISTED IN ANNEX I TO THE TREATY

Vinegars (other than wine vinegars)

ITALY

- Aceto balsamico tradizionale di Modena (PDO)
- Aceto balsamico tradizionale di Reggio Emilia (PDO).