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ANNEX C: TRADITIONAL SPECIALITIES GUARANTEED

PART C: TRADITIONAL SPECIALITIES GUARANTEED

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PART C: TRADITIONAL SPECIALITIES GUARANTEED

C.1. INTRODUCTION

'Traditional specialities guaranteed' (TSGs) was introduced in 1992 to register names of agricultural products or foodstuffs that are produced using traditional raw materials or traditional methods of production, or that have traditional composition.

TSG scheme offers two types of registration of a name: with or without 'reservation'. If the name is registered without reservation, it can still continue to be used for products that do not correspond to the specification but without the indication "traditional speciality guaranteed", the abbreviation "TSG" or the Community symbol. On the contrary, when a name is registered with reservation, it can only be used to describe the product made in accordance with the specification.

It has to be noted that TSGs differs from the system for geographical indications (GIs) since it does not refer to origin. In fact, the system is drawn so that any producer complying with the product specification may use the registered name together with the TSG indication, abbreviation or logo on the labelling of an agricultural product or foodstuff.

C.2. PROBLEM DEFINITION

2.1. Problem identification

Since 1992 only 20 TSG names have been registered. Most of them without reservation of the name what serve only to identify the traditional product, and not to protect the name. Only few of the registered names are significant in economic terms. Also it appears that no operators outside the country from which the initial application was made have taken advantage of this provision in the TSG regulation.

The problem can therefore be summarised as that TSG scheme as conceived is difficult to be implemented.

2.2. What are the underlying drivers of the problem?

There are only few studies available concerning the implementation of the scheme. However, several causes that lead to low implementation of the scheme¹ can be identified:

¹ Background Paper to the Green Paper on agricultural product Quality summaries a Commission Report to the Council on the implementation of Regulation (EEC) No 2082/92 (COM(1999) 374, 19.7.1999), a study concerning the protection of traditional Rhônalpins products as TSGs, and a chapter on TSG in a booklet

- *Low understanding of the scheme.* At the time of its introduction the TSGs scheme was completely new and unfamiliar concept to the producers. It included the notions of ‘specific’ and of ‘traditional character’ that were not defined and consequently their elements were often used interchangeable.

Also the indication "Traditional Speciality Guaranteed" is complex. If scheme was to be easily understood by consumers it should have conveyed a simple message of the type ‘produced in a traditional way’. The complexity of the indication may explain the limited use of it and/or logo on products in the market. This in turn leads to low consumer awareness and thus low demand for registration of recognised traditional specialities.

In order to be registered, a name should be either ‘specific in itself’ or ‘express the specific character’ of the product. The later criterion has turned out to be problematic.

In contrast to the GI scheme, which was introduced at the same time and which was already in place at national level in certain Member States, there is no link between the product and its origin.

Several times it has been pointed out that it is difficult for producers to grasp the point of the protection afforded by the Regulation.

- *Two types of registration and protection.* Registration provided for in paragraph 1 of Article 13 of the Regulation (EC) No 509/2006 would serve only to identify the agricultural product or foodstuff that corresponds to the product specification. However, registered names may continue to be used on the labelling of products not corresponding to the registered specification, but without the indication "traditional speciality guaranteed", the abbreviation "TSG" or the Community symbol. This option has been strongly criticised on several occasions as not offering real protection for the consumer and creating greater confusion rather than removing ambiguities. Furthermore, producers failed to understand how, when a name is registered, it would still be possible to find a product on the market, sold under the same name as the registered product but produced in a different way.

Protection provided for in Article 13(2) involved protection of the name. Under this option the name can only be used to describe the product made in accordance with the specification, whether or not it bears the indication ‘traditional speciality guaranteed’, the acronym ‘TSG’ or the EU logo. Reservation of the name can be obtained if it is not shown that the name is used in a lawful, renowned and economically significant manner for similar agricultural products and foodstuffs. This type of protection would be obviously clearer to the producer (and consumer), but it was more difficult to obtain hence only few applicants opted for it. Following objections, some applicants, in order to reach a settlement, have agreed to convert their original

applications for registration with reservation of the name to applications under paragraph 1.

Any producer who follows the conditions of production laid down could use the registered name as well as the Community logo and indication. In most cases producers would prefer the option of reserving a name and recipe just for themselves. In other words - this non-exclusivity may have discouraged some producers from opting for this scheme.

- *Registration procedure.* Experience has shown that the registration procedure takes a long time especially when additional information relating to the specification is required or objections are raised to the application. Another aspect raised by producers as being off-putting is the objection process itself: being raised frequently and very often based on competition considerations rather than fundamental (e.g. technical) reasons.
- *Inspection.* The cost of inspection that has to be borne by the users could represent a fairly substantial item of expenditure, at least for small and medium-sized producers. Therefore not appropriate/suited/tailored control requirements can be considered as one of the disincentives for producers to submit registration applications.
- *TSGs unknown.* Low awareness of the scheme can be observed by both producers and consumers. As already pointed out above TSGs introduced completely new concept. The fact it was established and promoted together/at the same time as GIs explains the confusion between those two concepts. In fact, many of the registered names denominate local traditional specialities that more closely correspond to PGIs, being produced and marketed in the limited areas.

In this regard very similar EU symbols for TSGs and GIs, though non-obligatory, certainly did not contribute to raise awareness of or to promote TSGs. This implies that only a limited added-value can be expected from the use of TSG symbol and therefore the scheme could hardly be used as a tool to differentiate the products.

The causes and effects of the problem are mapped in Problem tree in Annex I.

2.3. Who is affected, in what ways and to what extent?

- *Producers* who wish to produce traditional agricultural products or foodstuffs and market them as such i.e. with a clear, understandable, simple, comprehensive indication (for the consumers) on the label. It could be assumed that mainly (artisan) small-scale producers/processors (SMEs) that use traditional method of production and/or ingredients in production of local/regional specialities. For the reasons explained above, producers do not opt for TSG registration.
- *Consumers* that are affected if they are interested in purchasing traditional foods. However, it is unlikely they are able to find with any frequency the 20 TSGs on the market, even less with TSG indication or a logo on the label.

They may rely on private or national labels claiming traditional production. On the other hand, consumers could question if product labelled as 'traditional' is genuine and/or that same criteria apply for different products in different regions.

Box 1: Consumer demand for traditional agricultural and food products in Europe

In Europe, consumer demand for traditional agricultural and food products has played an important part in the renewed interest of local farmers and distributors in these products. In general, the demand for these products increases with economic improvements in societies, urbanization and the degree of integration in the global market. Indeed, traditional regional agricultural and food products are often seen as a response to environmental concerns generated by globalization (transport of products over long distances) and to retailers' driving the supply of food. In the case of transition economies, it can be a response to the rapid and sometimes uncontrolled modernization process, which commonly includes an increase in importation of processed foods marketed by multinational firms.

In this context, traditional products are seen as a counter force to modern anxiety (globalization and rapid changes), attracting an increasing number of consumers who are looking for roots, familiarity, continuance in places, identity and tradition. Some consumers may prefer local or national products if they perceive them to be of better quality; they want to support the local or national economy; or they are proud of their cultural identity. Finally, the organoleptic characteristics of these products make them attractive, especially for connoisseurs.

(Promotion of traditional regional agricultural and food products: a further step towards sustainable rural development, Twenty-sixth FAO Regional conference for Europe, Innsbruck, Austria, 26-27 June 2008

http://www.fao.org/world/Regional/REU/ERC2008/ERC_EN/ERC26_08_6_E.pdf

- Traditional products when sold through short channels such as direct marketing (sales on farm, farm tourism) and other local outlets like food shops, local markets, guest houses/restaurants, farmers' markets/festivals etc. would benefit several *local actors* involved.

As a consequence of marketing through retail chains and tourism *non-local actors* would benefit - a notable trend.

- *Authorities* by promoting their culinary heritage what would include managing the register of traditional products/check compliance with criteria/award the use of the traditional name and/or indication-logo...(see examples in Boxes 3 and 4)
- *International dimension*. TBT notification; scheme open to 3. countries applicants – comply with criteria if term used.

2.4. How would the problem evolve without a change in policy?

Taking into account several aspects the problem of the implementation of the scheme, it could be expected that only few names would continue to be registered. At present there are 22 applications for registration. As a consequence, it could be concluded that without a change in policy the objectives of the scheme would not be achieved.

2.5. Does the EU have the right to act?

The present IA is about revision of existing EU legislative act (Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialities guaranteed which repealed Regulation (EEC) No 2082/92) where the objectives of EU action have been defined. Article 37 of the Treaty provides the legal basis.

C.3. OBJECTIVES

Regulation (EC) No 509/2006 in force sets out the objectives of the scheme in the recitals (Box 2).

Box 2: Recitals to the Regulation (EC) No 509/2006 concerning the objectives of the TSG scheme

"(2) The diversification of agricultural production should be encouraged. The promotion of traditional products with specific characteristics could be of considerable benefit to the rural economy particularly in less-favoured or remote areas both by improving the income of farmers and by retaining the rural population in these areas.

(3) For the sound running of the internal market in foodstuffs economic operators should be provided with instruments allowing them to enhance the market value of their products while protecting consumers against improper practices and guaranteeing fair trade."

It is difficult to argue that these objectives are met taking into account the situation as summarised in the previous section. However, the purpose of this analysis is to determine the way how they can be achieved.

Proposed options will be therefore assessed with respect to:

3.1. General objectives

- Support rural areas to improving the income of farmers thus retaining the rural population in these areas
- Smooth functioning of the internal market in foodstuffs

3.2. Specific objectives

- promotion of production and marketing of traditional products thus diversification of the agriculture

- protecting consumers against improper practices and guaranteeing fair trade

3.3. Operational objective

- to establish a ("user-friendly" - easy to use/understandable for producers and consumers) framework in order to enable identification, and poss. registration of traditional products (incl. poss. introduction of a symbol)

Indicator: No of products marketed bearing the indication/logo or names registered – depending on the option that will be selected

C.4. POLICY OPTIONS

4.1. Option A: No EU action

4.1.1. Basic approaches

Existing EU scheme would be discontinued and EU would in principle not get involved by setting specific rules/legislation in regard to traditional products. Regulating traditional specialities (including defining the term) and its implementation (i.e. identification/registration of traditional products) would be left to Member States and/or regions.

However, EU could through other instruments (not considered here) such as rural development policy, support the activities of private operators and Member States.

4.1.2. Screening for technical and other constraints

Member States/regions that find necessary/useful they could put in place any kind of a system to identify and or register traditional specialities as some already have.

Box 3: 'Prodotti agroalimentari tradizionali' in Italy

Based on **Legislative decree 173/98** and implementing rules in **Ministerial decree 350/99**:

- Traditional agrifood products refer to products for which the method of preparation, conservation or maturation has become well established over time.
- Regions and autonomous provinces verify that methods used in their territories in uniform manner and in accordance to traditional rules and had been used for a period not less than 25 yrs.
- Regions/provinces keep directories of traditional agri-food products containing name, product characteristics and production/conservation/maturation method, raw material and equipment, and premises of production/conservation/maturation.
- National directory composed of products in regional and provincial directories is held by Ministry.
- Possibility for derogations from hygienic rules for production of these products (Decree of Health minister in agreement with Minister for Agriculture and Minister for Industry and Crafts)

Circular n°10 of the 21 December 1999 defines criteria for products to be included to the directories of regions and provinces of traditional agri-food products

- being same as those listed in Annexes to Regulation (EC) No 510/2006 and liqueurs.
- if name is subsequently registered under Regulation (EC) No 510/2006 then product is deleted from national directory (Repeated in Decree of Director General 'seventh revision of national directory of agri-food products, No 8627, from 2007).
- regions and provinces transmit to the Ministry (Director general) their directory of traditional products. For each product a form has to be compiled containing the following elements:
 1. category;
 2. name of the product, comprised synonymous and dialectal terms;
 3. concerned territory to the production;
 4. summarised description of the product;
 5. description of method of production, conservation and maturation;
 6. raw materials, specific equipment used for the preparation and the conditioning;
 7. description of working premises, conservation and maturation;
 8. elements that they prove that the method has been practiced in homogenous way and according to traditional rules for not less than 25 years.

Products can be searched on IT Ministry web site:

<http://www.politicheagricole.gov.it/ProdottiQualita/ProdottiTradizionali/default.htm>

There are also web sites on regional/traditional/typical products:

<http://www.prodottiregionali.net/> and <http://www.prodottitipici.com/>

Box 4: Identification of traditional Flemish products in Belgium

In order to be recognised as traditional, products have to satisfy the following criteria:

- products are prepared with raw materials from the region;
- they are perceived by the local population or by a broader public as traditional regional products;
- they are manufactured in old-fashioned way according to the region's tradition;
- they are prepared in their region of origin;
- they must exist for a minimum 25 years. Term 'traditional' means a long-term or historical reputation as a region's speciality.

<http://www.streekproduct.be/overstreekproducten/index.phtml>

4.1.3. Assessment of effectiveness, efficiency and consistency

Effectiveness of this option would in the first place depend on Member States decision whether or not to opt for an establishment of a system. Furthermore, various mechanisms can be chosen (e.g. only register of names or introduction of

a logo) and supported. This approach is in line with the decentralised operation of Rural development programming.

Box 5: European Parliament – DRAFT REPORT on ensuring food product quality: harmonisation or mutual recognition of standards (2008/2220(INI), 18.11.2008

25. Favours preserving and simplifying the system of guaranteed traditional specialities (GTSs); expresses disappointment at the performance of this instrument, under which so far only a small number of GTSs have been registered (20, with 30 applications pending); stresses that producers prefer the national instruments for certifying traditional products, in many cases in order to obtain exemptions from certain obligations (e.g. plant health rules);

27. Welcomes the creation at Member State level of offices for traditional and organic products; believes that every Member State should have bodies, whether public or private, that are universally recognised by producers and consumers for purposes of promoting and validating local organic and quality production;

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-414.335+01+DOC+PDF+V0//EN&language=EN>

This option would on the other hand lead to different implementation in the Member States/regions, especially in regard to the definition of traditional products. It would be possible that consumers from other Member States/region, having different perception and expectations of traditional products, could be misled, therefore effectiveness of this option is questionable as far as functioning of the Single Market is concerned.

Provided burdensome registration procedures are avoided, Member State/regional registration could be considered as being efficient. On the other hand, there will be adjustment costs for registered/applied names.

Option would be coherent with the Better Regulation objective by reducing 'red tape' of TSG scheme, while it might help the objectives of CAP as laid down in Article 33(1) of the Treaty (Box 6), in particular regarding income (point (b)).

Box 6: Objectives of CAP laid down in the Treaty

Article 33

1. The objectives of the common agricultural policy shall be:

(a) to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;

(b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;

(c) to stabilise markets;

(d) to assure the availability of supplies;

(e) to ensure that supplies reach consumers at reasonable prices.

4.1.4. *Fine-tuned shortlist for further analysis*

This option is to be retained for further analysis.

4.2. **Option B: Labelling**

4.2.1. *Basic approaches*

Bearing in mind that most of the names were registered without reservation of the name and serve only to identify the traditional product-speciality and not to protect the name, an introduction of a defined reserved term for "traditional product" would be another option.

In this regard development of framework legislation that sets out basic principles/conditions and procedures for definition and use of reserved terms would have to be considered.

4.2.2. *Screening for technical and other constraints*

Taking into account the results of public consultations on labelling of non-obligatory information (Box 7), notably no consensus among stakeholders while pointing out danger of consumers to be misled, solution of defining an optional reserved term could be appropriate. In fact, in the Green Paper consultations, the stakeholders most frequently proposed a defined reserved term as an alternative to TSG scheme (Annex II).

Defining the term 'traditional' would mean that when used by operators the product bearing it on the label would comply with the definition.

Box 7: Results for public consultation concerning the labelling of non-obligatory indications

"Voluntary information"

There was no consensus emerging from the contributions on the best way forward to deal with voluntary mentions, in particular promotional messages.

On the whole, the industry wants no additional legislation on voluntary information and would favour the status quo, with a freedom to offer voluntary information providing that it is not misleading and can be substantiated. However, some industry representatives think there is scope for Codes of Practice that could be agreed by the industry on an EU-wide level.

Although it is quite accepted that the EU legislation could not be so prescriptive as to regulate the use of such terms as "pure", "original", "farmhouse", "country style", "traditional", "authentic" (...), some Member States would like those voluntary mentions to be addressed by way of a Commission guidance document with a view to ensuring that the consumer is not misled. On the contrary, other Member States are of the opinion that those terms, when used, are so much linked to national culture and

practices that they should be assessed locally through national case law or guidance set at national level."

(Summary of results for the consultation document on "Labelling: competitiveness, consumer information and better regulation for the EU", December 2006,

http://ec.europa.eu/food/food/labellingnutrition/betterregulation/lab_cons_summary.pdf)

However, defining the term might turn out as not being an easy task. At present several definitions exist (Regulation (EC) No 509/2006; Boxes 3, 4 and 8) what indicate the possible elements/aspects the definition of reserved term should or could include. Proper definition of the term seems crucial - if not adequate it could result in more harm by eroding/jeopardising real traditional products being produced and marketed.

Box 8: TRUEFOOD's definition of traditional food products

At the 1st workshop of Work Package 5 (WP 5), organised in Gent (Belgium) in July 2006, the participants developed a new definition of traditional food products.

For the purpose of this project WP 5 agreed on a definition of traditional food with the following aspects:

- 1) PRODUCTION: the key steps of the production must be local (national/regional/local). Once firms start to produce in other countries, the food is no longer considered as traditional.
- 2) AUTHENTIC: the product has to fulfil at least one of the following steps: authentic recipe (mix of ingredients) and/or authentic origin of raw material and/or authentic production process,
- 3) COMMERCIALY AVAILABLE: for the public for at least 50 years (= 1950 and before) in stores or restaurants; it may happen that during that period the food product disappeared from the market, but it was on market at least 50 years ago, and
- 4) GASTRONOMIC HERITAGE: the product must have a story which is - or can be - written down in 2-3 pages.

(TRUEFOOD – Traditional United Europe Food is an Integrated Project (IP) financed by the European Commission under the 6th Framework Programme for RTD. The project started 1 May 2006 and will last 4 years. The overall aim of TRUEFOOD is to introduce suitable innovations into traditional food industry to maintain and increase the competitiveness of the industry in an increasingly global European market place.

http://www.truefood.eu/latest_news_det.asp?ID=4

This option would not entail registration, although this is also possible if Member States/regions would decide so. Regarding proper implementation of the term, the same control provisions as for food labelling would apply. Claims that products

are 'traditional' could be more easily checked against its definition. If the term is not defined, it is up to the operator to demonstrate the claim whatever understanding he might have.

It has to be noted though that other terms that are considered as voluntary mentions in food labelling (Boxes 7 and 9) seem likely to remain not regulated horizontally at the EU level, including the terms with most similar meaning like 'authentic'.

Box 9: Other terms used ...

The demand for traditional products has created branding incentives. In this regard, big retailers are largely using references to terroir, tradition, regional features, and even creating their own specific umbrella trademark in order to market products. A diversity of associated claims, such as "natural", "old", "farmhouse", "original", "rustic", "classic", etc. are used and this can be confusing for consumers.

Definitions and accurate explanations of terms for sustainable food production and consumption are needed, particularly for consumer education and food labelling. Terms such as natural, eco, fresh, bio and pure while sometimes being defined at the national level according to the cultural context, also need to be re-examined at the international level.

Green Food Claims, An international survey of self-declared green claims on selected food products, Consumers International, 2004, available at: http://www.consumersinternational.org/Shared_ASP_Files/UploadedFiles/C2A0C218-1399-4FC7-9EA9-34E73EA45C77_Doc1156.pdf

Food Standards Agency (FSA) in the UK issued in 2002, revision in 2008, "Criteria for the Use of the Terms Fresh, Pure, Natural, etc. in Food Labelling" that aims to assist manufacturers, producers, retailers and caterers to decide when these marketing terms may be used and when they should not as well as to help enforcement authorities to provide consistent advice about labelling and to challenge inappropriate uses of marketing terms. (NB It is acknowledged that there is no legal obligation to follow the recommended criteria. Whether this advice is followed or not, misleading labelling would still be an offence under legislation.)

Criteria for the Use of the Terms Fresh, Pure, Natural, etc. in Food Labelling, Food Standards Agency (FSA), Revised July 2008, available at: <http://www.food.gov.uk/multimedia/pdfs/markcritguidance.pdf>

In UK, a survey published in February 2004 indicated that up to 40% of the labels informally investigated were considered not to comply with the guidance (44% in case of term 'traditional'). This gives a clear indication that in the UK such claims continue to be used in a way that is potentially misleading to consumers.

Survey Report: An Investigation Of The Use Of Terms Such As Natural, Fresh Etc In Food Labelling, Food Standards Agency (FSA), 2004, available at: <http://www.food.gov.uk/multimedia/pdfs/labeltermsreport0204.pdf>

Another possibility is the traditional terms model in the Common Market Organisation in wine (See Box 10) that are traditionally used in the Member

States. Although both TSGs and traditional expressions in wine are labelling devices, designed to convey to consumers that certain traditional production methods have been used, there are not many similarities between them. In the case of wines, traditional expressions are reserved exclusively to particular wines and only in the Member States and language(s) that ask for their recognition. Protection of traditional terms against the misuse, imitation or evocation applies only in the language(s) they are registered. It has to be noted that terms must have been defined in the Member State's legislation. It therefore seems that precisely this model (in effect attaching the traditional term to a registered PDO-PGI) would not be manageable across all agricultural product sectors.

Box 10: Traditional expressions under Common Market Organisation in wine

As explained in the Recital 18) to Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products (Official Journal L 118, 04/05/2002 P. 0001 – 0054), the use and regulation of certain terms, other than designations of origin, to describe quality wine sector products is a long-established practice in the Community. Such traditional expressions can evoke in the minds of consumers a production or ageing method or a quality, colour or type of wine or a particular event linked to the history of the wine. So as to ensure fair competition and avoid misleading consumers, a common framework for registering and protecting such traditional expressions had to be provided.

Article 24 of that Regulation lays down definition of the term traditional, procedure for term's recognition, derogation for use on the labels of wines with GI originating in third countries and protection.

Traditional term has to be

- (a) specific in itself and precisely defined in the Member State's legislation;
- (b) sufficiently distinctive and/or enjoy an established reputation on the Community market;
- (c) traditionally used for at least 10 years in the Member State in question;
- (d) used for one or more Community wines or categories of Community wine.

Member States notify to the Commission the terms that are included in their legislation that meet the requirements and the wines for which they are reserved, together with justification for recognition of each term.

By way of derogation, the use of certain traditional terms listed would be permitted on the labelling of wines with a geographical indication originating in third countries under certain conditions.

Protection of traditional terms against any misuse, imitation or evocation applies only in the language(s) in which terms appear in Annex III to the Regulation.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002R0753:EN:HTML>

4.2.3. *Assessment of effectiveness, efficiency and consistency*

By applying same definition for the term 'traditional', the possibility of unfair competition and trade practices would be avoided therefore the proper functioning of the Single Market in traditional agri-food products would be achieved. It is not possible to estimate to what extent the operators would make use of the possibility to use the term on the label of their products when marketed. Also, the appeal to consumers that would be decisive when making purchasing decisions is not known. Besides, Member States/regions could put in place different systems to identify and/register traditional specialities as well as decide to support their promotion. Nevertheless under this option policy objectives seem likely to be achieved.

If burdensome registration procedures are avoided that it would be possible that measures adopted at the Member States/regional level could be considered as being efficient. On the other hand, there will be adjustment costs for registered and applied names for registration as a TSG.

Option would be coherent with the Better Regulation objective by reducing 'red tape' of TSG scheme and seems in line with the objectives of CAP as laid down in Article 33(1) of the Treaty (Box 6), in particular regarding income (point (b)).

4.2.4. *Fine-tuned shortlist for further analysis*

This option is to be retained for further analysis.

4.3. **Option C: Certification**

4.3.1. *Basic approaches*

If the TSG scheme continues then it should be simplified. The current scheme provides that a name can be registered with or without its reservation. It would be therefore possible to streamline the provisions of the scheme by allowing henceforth only one type of registration, namely:

- Sub-option C1: TSG registration without reservation of the name. This sub-option would entail the abolition of the registration of the name under Article 13(2) therefore the registration of a name would serve only to identify the traditional form of the product.
- Sub-option C2: TSG registration with reservation of the name. In this case the name would only be used to describe the product made in accordance with the specification therefore current control provisions would seem adequate.

It has to be noted that in the Green Paper consultations, the option of allowing only registration with reservation of the name was preferred to several stakeholders if the provisions of the current scheme are to be simplified and streamlined (Annex II).

4.3.2. *Screening for technical and other constraints*

Abolition of one type of registration would remove the confusion between the two possible registrations that producers and consumers experience at present.

As a consequence some other provisions would need to be adjusted e.g. the UE register would contain only one list of names recognised throughout the Community. Beside other and further steps in simplifying and streamlining of the existing legal framework would be opportune, in particular in case of Sub-option C1:

- Inspection system should be made suitable to the requirements of the scheme. In case of Sub-option C1 where the registration of TSG serves only to identify the traditional product and not to protect the name the control system can be less demanding. On the other hand in case of Sub-option C2 the name would be used to describe the product made in accordance with the specification therefore current control provisions would seem adequate;
- Registration procedure under Sub-option C1 could be made shorter and less demanding, especially regarding the objection procedure. On the other hand, under Sub-option B2 it would remain burdensome, both at a national and Community level, since several oppositions are likely;
- streamlining of the provisions, including the definitions for the specific and traditional character as well as a review of the provisions regarding names could also be included;
- in order to make the scheme relevant a comprehensive indication to both producers and consumers (e.g. "Traditional product") and appropriate new logo, that would not resemble the PDO/PGI logo, could be envisaged/considered.

4.3.3. *Assessment of effectiveness, efficiency and consistency*

Both options give rise to doubts in terms of their effectiveness. Not only the estimation of the number of registered TSGs in the future, their economic importance would need to be taken into account. Among the registered names at present (Box 11) names of a generic nature on one hand as well as names relating to a small scale local product can be found under each type of registration.

It has to be noted that not all names make use of a logo although from 1 May 2009 its use or the indication "traditional speciality guaranteed" will be compulsory.

Box 11: List of TSGs according to the type of registration

Registered TSGs without reservation of the name (Article 13(1) of Regulation (EC) No 509/2006):

1. Vieille Kriek, Vieille Kriek-Lambic, Vieille Framboise-Lambic, Vieux fruit Lambic/Oude Kriek, Oude Kriekenlambiek, Oude Frambozenlambiek, Oude Fruitlambiek
2. Vieille Gueuze, Vieille Gueuze-Lambic, Vieux Lambic/Oude Geuze, Oude Geuze Lambiek, Oude Lambiek

3. Faro
4. Kriek, Kriek-Lambic, Framboise-Lambic, Fruit-Lambic / Kriek, Kriekenlambiek, Frambozenlambiek, Vruchtenlambiek
5. Lambic, Gueuze-Lambic, Gueuze/Lambiek, Geuze-Lambiek, Geuze
6. Mozzarella
7. Leche certificada de Granja
8. Traditional Farmfresh Turkey
9. Panellets
10. Hushållsost
11. Trójniak
12. Póltorak
13. Czwórniak
14. Dwójniak

Registered TSGs with reservation of the name (Article 13(2) of Regulation (EC) No 509/2006):

15. Jamón Serrano
16. Falukorv
17. Sahti
18. Kalakukko
19. Karjalanpiirakka
20. Boerenkaas

(Source:

<http://ec.europa.eu/agriculture/quality/door/browse.html;jsessionid=JpgJJBSWpJg3wJh8qLVGKThy7z320nJ9JyTSP19pNcWCrPB7kNky!-1030956484?display>

It would be difficult to demonstrate efficiency of both Sub-options: Efficiency of Sub-option C1 could be achieved due to significantly lighter administrative burdens (registration procedure, control) - what can not be expected for Sub-option C2 – but on the other hand no gains to either producers nor consumers can be seen due to ambiguity/confusion due to products not corresponding to the specification being produced/marketed under registered name would not be eliminated.

Sub-Option C1 would be more coherent with the Better Regulation objective by reducing 'red tape' of TSG scheme than Sub-Option C2. Both the Sub-options are not counter to the objectives of CAP as laid down in Article 33(1) of the Treaty (Box 6), in particular regarding income (point (b)), but none of them are actually helping them to be achieved.

4.3.4. *Fine-tuned shortlist for further analysis*

This option will be retained for further analysis.

4.4. **Option D: Status Quo**

4.4.1. *Basic approaches*

This option envisages the continuation of the current scheme.

Under this option the issues that are included in the declaration of the Commission to the Council at the time the Regulation (EC) No 509/2006 was adopted would need to be addressed namely product coverage, the use of geographical names, and a possibility of creating "representative bodies" for products with TSGs.

4.4.2. *Screening for technical and other constraints*

Although importance of and support for the current scheme was expressed by several Member States and other stakeholders (Box 12, Annex II), that is not substantiated in the number of applications. According to Member States the main reason that the scheme experiences such a low take-up is that the scheme is relatively unknown due to its recent introduction (in 1992) and to lack of its promotion.

Box 12: Member States position on TSG scheme

On 5 and 14 November 2008, Council Working Party on Agricultural Product Quality discussed Green Paper on Agricultural Product Quality: product standards, farming requirements and quality schemes.

It has to be noted that Several Member States signalled that their internal consultations with the stakeholders were still on-going and therefore delegations were only able to give their preliminary views.

Concerning TSG, Member States acknowledged that the TSG scheme has not been as popular as GIs but all delegations wanted to maintain the TSG scheme. Several delegations called for its promotion, whereas some others felt that this concept should be developed and simplified further. The Working Party noted that it has particular interest for new Member States.

(Source: Council WP Progress Report, 15652/08 LIMITE AGRI 387)

4.4.3. *Assessment of effectiveness, efficiency and consistency*

Taking into account that several aspects of the problem the scheme contains (as described in point 2.2) it could be expected that only few names would continue to be registered. This assumption is supported by a fact that at present there are 22 applications for registration as TSG. As a consequence, it can be concluded that without a change in policy the objectives of the scheme would not be achieved. In other words: the current scheme can not be regarded as effective.

Moreover, efficiency of the scheme is questionable when heavy administrative burdens (registration procedure, control) are taken into account, especially in case of registration of a name without its reservation.

As described above, Option D would be considered as - despite the provisions of the Regulation were streamlined in 2006 - coherent with the Better Regulation objective by reducing 'red tape' nor it would have impact on the objectives of CAP as laid down in Article 33(1) of the Treaty (Box 6), in particular regarding income (point (b)).

4.4.4. *Fine-tuned shortlist for further analysis*

As baseline scenario this option is retained for further analysis.

C.5. IMPACT OF OPTIONS

5.1. **Option A: No EU action**

5.1.1. *Identification of impacts*

Economic impacts

Competitiveness, trade, competition in internal market

An impact would by large depend on Member States/regions and consequently operators decisions to establish and use a system for identifying the traditional product. Even a significant impact could be expected under this option if experiences of Member States are taken into account: In Italy alone there are more than 4000 'traditional' agri-food products registered².

But it has to be noted that differences between Member States/regions that can be expected under this option would not contribute to the proper functioning of the Single Market, even more, unfair trade practices are possible.

Consumers

Possibility that Member States/regions adopt different system to identify traditional products that are based on different criteria is likely so consumers could be misled.

Specific regions /sectors

Effects on rural economy and areas by creating/preserving jobs, esp. SMEs, would be difficult to asses especially because Member States/regions already have the possibility to regulate traditional products as previewed under this Option, beside/in parallel to TSG scheme.

Operating costs and conduct of business

Use of an indication or a symbol for traditional product on the label would not have a major impact on costs of business.

Administrative burdens

No registration procedure at EU level but possibly at Member States/regional level.

² Source: <http://www.politicheagricole.gov.it/ProdottiQualita/ProdottiTradizionali/default.htm>

Abolishing the scheme under Option A would affect rights acquired for the existing registered names as well as for the pending applications. In this regard an appropriate transitional period would need to be envisaged for the alternatives to TSG registration. It will be up to producers to decide which one (GI, TM, labelling with 'traditional'... or none) to go for. An important possibility lies in registration of a name as a PGI, especially for registered names that denominate local traditional specialities. It has to be noted that back in 1992 it was not possible for a non-geographical name to be registered as a PGI. However, this option was opened in the 2006 regulation to better align the PGI definition with that in TRIPS.

International trade

Abolishing the scheme would not produce any impact.

Social impacts

Employment

Difficult to predict, even more to quantify, the possible increase in production of traditional specialities that would in turn have positive effect on (local) employment in the rural areas, including other sectors (services like trade, catering and tourism).

Environmental impacts

Use natural resources

Not possible to assess. Likely no effect, unless production of traditional products improve farmers' incomes thus help to keep rural areas populated. By retaining those areas populated it would not only result in production of food, other agriculture's functions/goals would be achieved like countryside management and nature conservation. The fact is that farming, together with forestry, has crucial role for land use and the management of natural resources in the EU's rural areas.

5.1.2. Qualitative assessment of impacts that are most significant

Too many variables so it is not possible to assess how Member States/regions and especially producers would behave under No EU option.

5.1.3. Advanced qualitative or quantitative analysis of impacts

None of the impacts can be quantified.

5.2. Option B: Labelling

5.2.1. Identification of impacts

Economic impacts

Competitiveness, trade, competition in internal market

Introduction of a common EU definition would certainly establish a level playing field for the producers. It would prevent non fair trade practices as well as misleading the consumers thus contributing to smooth functioning of Single Market in foodstuffs.

Consumers

Consumer would only benefit from a clear and understandable indication on the label when making purchasing decision. NB claims could be easily verified and false ones sanctioned.

Reserved term would avoid 'logo fatigue'.

Specific regions /sectors

Similar as for the other options, effects on rural economy and areas by creating/preserving jobs, esp. SMEs, would be difficult to assess.

Operating costs and conduct of business

Change of label due to addition of an indication for traditional product would not have a major impact on costs of business.

It is however not possible to assess the extent the term 'traditional' would be used by operators.

Administrative burdens

No registration at EU level, possible at Member States/regional level.

As explained under Option A, an appropriate solution for the problem of rights acquired for the existing registered names as for the pending applications would need to be envisaged.

International trade

If term used on labels of products originating in third countries then it would have to comply with defined criteria.

Notification to the WTO under the TBT Agreement (Technical Barriers to Trade) might be required.

Social impacts

Employment

Difficult to predict, even more to quantify, the possible increase in production of traditional specialities that would in turn have positive effect on (local) employment in the rural areas, including other sectors (services like trade, catering and tourism).

Environmental impacts

Use natural resources

Not possible to assess. Likely no effect, unless production of traditional products improve farmers' incomes thus help to keep rural areas populated. By retaining those areas populated it would not only result in production of food, other agriculture's functions/goals would be achieved like countryside management and nature conservation. The fact is that farming, together with forestry, has crucial role for land use and the management of natural resources in the EU's rural areas.

5.2.2. *Qualitative assessment of impacts that are most significant*

Too many variables so it is not possible to assess how Member States/regions and especially producers would behave if this option is selected.

5.2.3. *Advanced qualitative or quantitative analysis of impacts*

None of the impacts can be quantified.

5.3. Option C: Certification

5.3.1. *Identification of impacts*

Economic impacts

Competitiveness, trade, competition in internal market

None of the Sub-options are likely to have notable positive economic impacts since it can be predicted that none of the Sub-option if selected would result in many TSG registration. Particularly to Sub-option C1 – registration with no reservation of the name that enables TSG Regulation to be adopted in 1992 – producing and marketing products not complying with the specification under the registered name. Such situation raises questions about the benefits of TSG registration to the producers while consumers would be confused having able to choose among different products (that are or not made according to the specification) with same name. Sub-option C2 – adopted as derogation from registration without reservation of the name back in 1992 – would require demanding registration and controls.

Consumers

None of the Sub-options is likely to increase much the consumers' choice of food products with authentic traditional specialities since not many registrations can be expected. In fact, Sub-option C1 would enable production and marketing of products that do not comply with the specification of the registered name. Consumers would be confused being able to choose among products with same name that are or not made according to the specification.

Specific regions /sectors

No significant effect on rural economy and areas nor to any specific sector can be expected.

Operating costs and conduct of business

Use of a symbol or indication TSG on the label does not have a major impact on costs of business.

Administrative burdens

Solution for registered names and for applications under the abolished type of registration would need to be envisaged.

Abolishment of one type of registration would enable simplification of provisions in particular on registration and control in case of Sub-option C1. If Sub-option C2 were selected procedures and requirements would remain more or less the same as at present.

International trade

EU Regulations were notified to the WTO under the TBT Agreement (Technical Barriers to Trade) as it would be necessary for any change of the scheme in the future.

Social impacts

Employment

No significant effects can be assumed: even if better prices were to be achieved for TSGs, their limited number would not allow concluding otherwise.

Environmental impacts

Use natural resources

Not possible to assess. Likely no effect, unless registered TSGs would increase farmers' income thus help to keep rural areas populated. By retaining those areas populated it would not only result in production of food, other agriculture's functions/goals would be achieved like countryside management and nature conservation. The fact is that farming, together with forestry, has crucial role for land use and the management of natural resources in the EU's rural areas.

5.3.2. Qualitative assessment of impacts that are most significant

Too many variables so it is not possible to assess how Member States/regions and especially producers would behave if this option is selected.

In this regard it has to be noted that Member States/regions already have the possibility to regulate traditional products at their level, beside/in parallel to TSG scheme.

5.3.3. *Advanced qualitative or quantitative analysis of impacts*

Due to the above, none of the impacts can be quantified

5.4. **Option D: Status Quo**

5.4.1. *Identification of impacts*

Economic impacts

Competitiveness, trade, competition in internal market

Continuation of the current scheme with expected few registered names that could relate to limited production in economic terms would therefore not have a significant impact to any of the mentioned criteria.

Consumers

Option would not increase much the consumers' choice of food products with authentic traditional specialities.

Specific regions /sectors

Option would have a significant effect on rural economy and areas by creating/preserving jobs, esp. SMEs.... Nor to any specific sector.

Operating costs and conduct of business

According to Regulation (EC) No 509/2006, a registered traditional speciality guaranteed produced within the Community will have to include on the label either the Community symbol or the indication "traditional speciality guaranteed" from 1 May 2009. Use of a symbol or indication TSG on the label does not have a major impact on costs of business.

Administrative burdens

As described in point 2.2, TSGs entail very demanding registration procedure and control requirements.

International trade

Current system is open to registrations from third countries. EU Regulations were notified to the WTO under the TBT Agreement (Technical Barriers to Trade) as would any change of the scheme proposed/ in the future.

Social impacts

Employment

No significant positive effect on (local) employment in agri-food sector can be assumed: even if better prices were to be achieved for TSGs, their limited number would not allow concluding otherwise.

Environmental impacts

Use natural resources

Not possible to assess. Likely no effect, unless registered TSGs would increase farmers' income thus help to keep rural areas populated. By retaining those areas populated it would not only result in production of food, other agriculture's functions/goals would be achieved like countryside management and nature conservation. The fact is that farming, together with forestry, has crucial role for land use and the management of natural resources in the EU's rural areas.

5.4.2. Qualitative assessment of impacts that are most significant

Too many variables so it is not possible to assess how Member States/regions and especially producers would behave if this option is selected.

In this regard it has to be noted that Member States/regions already have the possibility to regulate traditional products at their level, beside/in parallel to TSG scheme.

5.4.3. Advanced qualitative or quantitative analysis of impacts

Due to the above, none of the impacts can be quantified.

C.6. COMPARING THE OPTIONS

Likely advantages and disadvantages of each option are presented in the following table.

Table 1: Summary of the advantages and drawbacks of the options

		Advantages	Drawbacks
Option A: No EU action		- scheme not successful, need for EU action not shown so traditional specialities would be managed only at Member States/regional/local level	- fragmentation of Single Market, consumer confusion possible - problematic for registered names and those applied for registration
Option B: Labelling		- establishment of clear framework by defining optional term 'traditional' - authenticity of traditional product more would be guaranteed to producers and consumers thus achievement of both objectives more likely - low administrative burdens (i.e. no certification)	- names not registered (and recognised - logo) at EU level - problematic for registered names and those applied for registration - far from certain if definition of a term would be such to identify 'real' traditional products (plus question of proper implementation/control). In other words, not adequate term could result in more harm (eg not really traditional product bearing the denomination would certainly erode/jeopardise real traditional products being produced and marketed) than 'doing nothing' - not coherent approach if other voluntary terms like 'authentic' would not be regulated horizontally at the EU level
Option C: Certification	Sub-option C1: <i>TSG registration without reservation of the name</i>	- TSG scheme simplified, especially in regard to control arrangements and registration procedure	- products not corresponding to the specification could still be produced/marketed under registered name therefore ambiguity/confusion would not be eliminated - few names continue to be registered thus achievement of policy objectives questionable - problematic for registered names and those applied for registration with reservation of the name
	Sub-option C2: <i>TSG registration</i>	- scope for simplification of TSG	- few names continue to be registered thus achievement of

	<i>with reservation of the name</i>	scheme seems rather limited - only products that correspond to the specification could be produced/marketed under registered name so no more ambiguity/confusion for producers and consumers	policy objectives questionable - problematic for registered names and those applied for registration without reservation of the name
Option D: Status Quo		- option supported by stakeholders, esp. Member States - no change for registered names and those applied for registration	- problems persist - few names continue to be registered - as a consequence the objectives would not be achieved

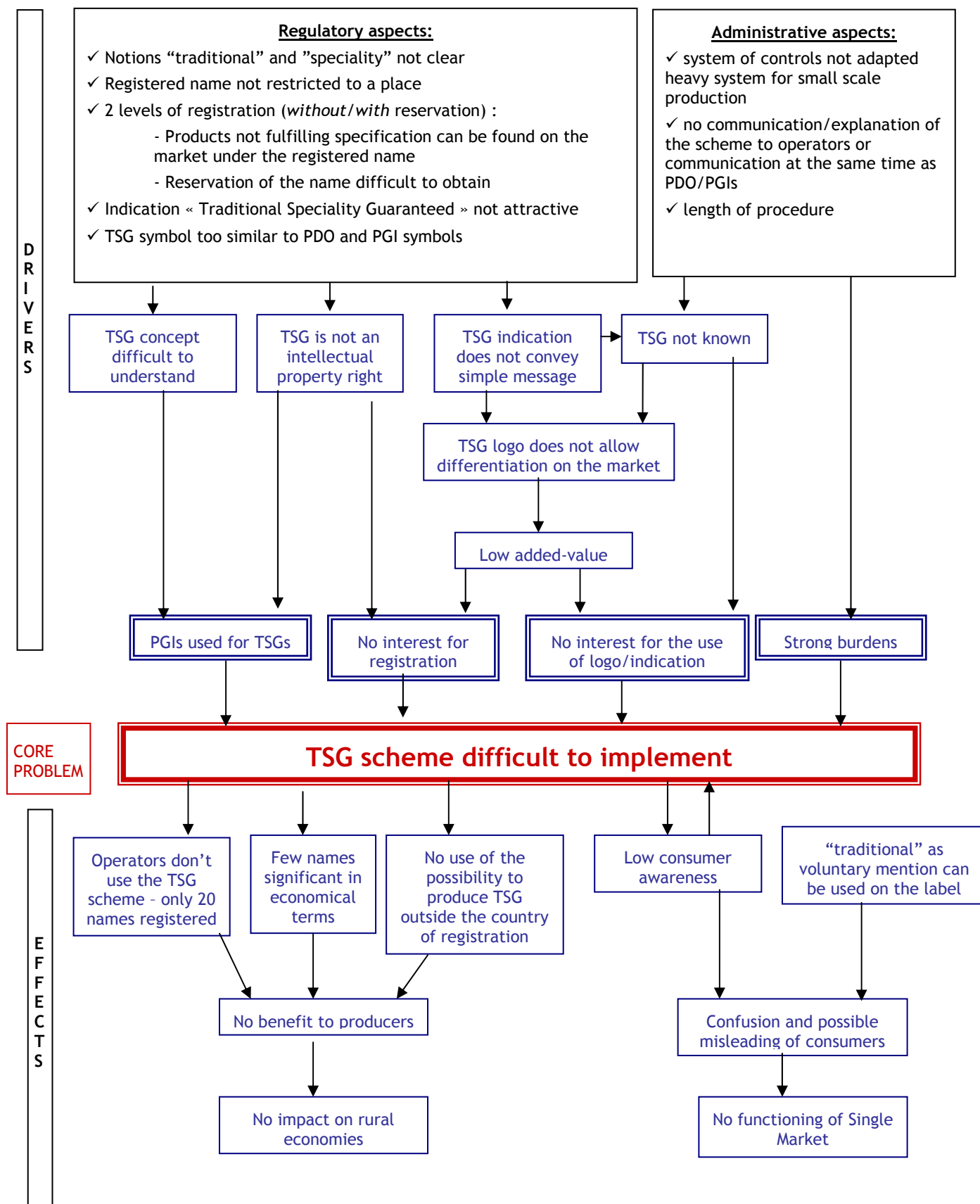
Effectiveness, efficiency and coherence of the options are presented in the following table.

Table 2: Comparison of effectiveness, efficiency and coherence of the options

		Effectiveness	Efficiency	Coherence
Option A: No EU action		o	+	o
Option B: Labelling		+	+	o
Option C: Certification	Sub-option C1: <i>TSG registration without reservation of the name</i>	-	-	o
	Sub-option C2: <i>TSG registration with reservation of the name</i>	-	-	-
Option D: Status Quo		-	-	-

Legend:
+ high
o medium
- low

ANNEX I: PROBLEM TREE



ANNEX II: GREEN PAPER - CONSULTATION OF STAKEHOLDERS ON TSG

Several stakeholders see way forward in simplifying and streamlining the provisions of the scheme: most pronounced ideas seemed to be that only registration with reservation of the name would be possible. In this regard there was a suggestion for registration of names with reservation at EU level while names without reservation would be registered at national level and notified to of the Commission. Another interesting proposal was that decision on TSG registration would be taken at national level although names would than enter EU register. Other improvements that were suggested are simplification of the procedure and control provisions, new logo, and wider scope.

Some stakeholders call for a communication and/or scheme promotion while others were in favour of *status quo*.

As an alternative to TSG the stakeholders most frequently proposed that a reserved term is defined. Other suggestions include its replacement by the introduction of guidelines or "code des usages" at EU level, conversion of existing TSG to GIs system, replacement with a national system, and to have recourse to trade marks. Sometimes simply a deletion of the scheme was proposed.

It has to be noted that in the consultation considerable support was expressed to TSGs scheme while pointing out its importance. In this regard it was often pointed out that TSG allows delocalisation of production (mode of production, recipe). On the other hand, there were claims that traditional products are linked to local know-how and therefore an instrument of protection at regional level for local artisanal products made according to traditional methods is thus needed.