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COMMISSION STAFF WORKING PAPER
IMPACT ASSESSMENT
ON TRADITIONAL SPECIALITIES GUARANTEED

Accompanying document to the

**Proposal for a Regulation of the European Parliament and of the Council on
agricultural product quality schemes**

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1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1.1. Procedural issues - Inter-service Steering Group (ISSG)

Lead DG:

- DG Agriculture and Rural Development (AGRI)

Other services involved:

- SG, SJ, ENV, ENTR, TRADE, MARE, REGIO, SANCO, MARKT, RTD, COMP, DEV, ECFIN, TAXUD

The work on the Impact Assessment on traditional specialities guaranteed was conducted by an Inter-service Steering Group made up of representatives of interested Directorates General and Commission Services.

Work on the IA was carried out from October 2009 to June 2010, during which the ISG met 3 times. Representatives of 12 Directorates General and Commission Services participated in the group.

The opinion of the IAB was taken into account as far as possible in the revised IA report in particular by:

- addressing the question of subsidiarity and the need for EU action, by reference to concrete examples;
- refocusing the problem definition; and,
- redefining the objectives.

1.2. Consultation of stakeholders

Before and during the Impact Assessment process, consultation of stakeholders was extensively used as summarised below.

- A wide Stakeholder consultation covering all aspects of the quality policy, including TSGs, took place through a **Green Paper on agricultural product quality policy (2008/AGRI/008)**¹. The report concerning TSG is available in Annex I.
- Discussions on the **Communication [COM(2009)234]**² took place in the **Council, the Parliament, the Committee of Regions and European Economic and Social Committee** (see Annex II).
- In order to better understand the policy needs related to traditional products and the choice of the adequate policy instruments to achieve them, **further consultation** of the stakeholders took place in spring 2010. For that purpose the Advisory Group³ on Quality

¹ http://ec.europa.eu/agriculture/quality/policy/index_en.htm

² http://ec.europa.eu/agriculture/quality/policy/communication_en.htm

³ Set up under the Commission Decision 2004/391/EC, the advisory group on the quality of agricultural production includes representatives of the socio-economic interest groups/organisations i.e. farmers and agricultural

was consulted on possible ways forward on meetings on 10 March 2010 (presentations of the possible options) and 11 May 2010 (presentation of the options and their preliminary impacts).

cooperatives, industry, trade, workers, consumers, environmentalists. In some cases, considering the points of the agenda, other interest groups may also be invited, organisations or producers' groups representing GI or TSG, mountain producers and organisations, NGOs etc.

2. POLICY CONTEXT AND PROBLEM IDENTIFICATION

2.1. Policy context

In 1991, the Commission presented a proposal for a Council Regulation on certificates of specific character for foodstuffs (SEC(90)2414 final) according to which certificates would be granted to foodstuffs presenting specific characters or production methods differentiating them clearly from other similar products. The objective was to harmonise existing national quality schemes in order to achieve the single market. The name of a product thus certified was to be automatically reserved.

The scheme was initially conceived by the Commission to identify and protect specific methods of production. However, late in the Council discussion in 1992, the term “traditional” was introduced with the result that only names of "traditional" products can be registered. This scheme was therefore not inspired by existing national systems in the same way as the PDO/PGI and organic farming instruments.

'Traditional specialities guaranteed' refers to registered names of agricultural products or foodstuffs that are produced using traditional raw materials or traditional methods of production, or that have traditional composition.

TSG names can be registered in two ways:

- **'without reservation of the name'**. In this case the name can be used freely on all product, but only products made in accordance with the TSG specification can be labelled with the Community symbol, indication "Traditional speciality guaranteed" or the abbreviation "TSG". The only benefit of such registration therefore lies in the possibility that a product can be **identified** as a TSG, either by the Community symbol or the indication "traditional speciality guaranteed".
- **'with reservation of the name'**: Names can alternatively be registered with reservation of the name' in which case the name can only be used to describe the product made that correspond to the specification. In this case the name, even where unaccompanied by the indication 'traditional speciality guaranteed', the abbreviation 'TSG' or the associated EU logo, may no longer be used on the labelling of similar foodstuffs not satisfying the registered 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.

Since its introduction in 1992, the operators of the food chain have shown only little interest in the scheme: only 28 TSG names have been registered, 11 of them with reservation of the name. Few of the registered names are significant in economic terms, one of them is Jamón Serrano, TSG (see Annex III). No operator outside the country from which the initial application was lodged has opted to produce a TSG product. Registration of 15 additional names has been applied for, of which 9 have been examined and published in OJ to open the objection phase. This is summarised in the box below:

Registered TSGs according to the type of registration	
<p>With reservation of the name:</p> <p>Jamón Serrano (ES) (ham) Kalakukko (FI) (pasta) Sahti (FI) (beer) Karjalanpiirakka (FI) (pasta) Boerenkaas (NL) (Cheese) Falukorv (SE) (meat product) Pierekaczewnik (PL) (biscuit) Prekmurska gibanica (SI) (cake) Idrijski žlikrofi (SI) (pasta) Belokranjska pogača (SI) (bread) Traditionally farmed Gloucestershire old spots pork (UK) (meat)</p>	<p>Without reservation of the name:</p> <p>Lambic, Gueuze, etc. (BE) (beer) Faro (BE) (beer) Vieille Gueuze, etc. (BE) (beer) Kriek, Framboise-Lambic, ect. (BE) (beer) Vieille Kriek, etc. (BE) (beer) Leche certificada de Granja (ES) (dairy) Panellets (ES) (biscuit) Mozzarella (IT) (cheese) Hushållsost (SE) Traditional Farmfresh Turkey (UK) (meat) Olej rydzowy (PL) (oil) Trójniak (PL) (mead) Półtorak (PL) (mead) Czwórniak (PL) (mead) Dwójniak (PL) (mead) Skilandis (SI) (meat product) Pizza Napoletana (IT) (confectionary)</p>
Applied TSGs according to the publication in the OJ	
(R = 'registration with reservation of the name' requested)	
<p>Already published:</p> <p>Lovecká saláma (SK, CZ) (meat product) Spišské párky (SK, CZ) (meat product) R Špekačky (SK, CZ) (meat product) Ovči hrudkovy syr - salašnický (SK) (cheese) Bratislavský rožok/ Pressburger kipfel/ Pozsonyi kifli (SK) (biscuit) R Ovči Salašnický údený syr (SK) (cheese) Kielbasa Mysliwska (PL) (meat product) Kielbasa jalowcowa (PL) (meat product) Kabanosy (PL) (meat product)</p>	<p>Not yet published:</p> <p>Traditional Pasture Reared Beef/ Boeuf a l'herbe de tradition (FR, UK, IE) (meat) R Traditional Brambley Apple Pie Filling (UK) (fruit, processed) R Moules de Bouchot (FR) (seafood) R Liptovská saláma (SK, CZ) (meat product) R Torta de Aceite de Castilleja de la Cuesta (ES) (biscuit) R Traditional Grass fed Red Poll beef (UK) (meat)</p>

After the Green Paper consultations in 2009-2010, the Commission published the Communication on Agricultural Products Quality Policy. In this Communication the Commission proposes to investigate the feasibility of introducing the term 'traditional product' as a reserved term defined within marketing standards and abolishing the current scheme.

As a follow up to the Communication, the Commission foresees to adopt the agricultural product quality package in December 2010 which will include the review of the traditional specialities guaranteed scheme.

Present report builds on the Annex C of the IA⁴ which accompanied Commission Communication laying down strategic orientations to improve the EU agricultural product quality policy by taking into account the reactions of the EU institutions and/or organisations and results of further consultations of stakeholders.

2.2. Problem identification

Low uptake of the scheme with only few names registered as traditional specialities guaranteed while stakeholders consider the scheme has a potential, TSG scheme is too complex and difficult to implement. The problem can be thus identified as **regulatory failure** (inadequately defined legal framework and implementation failure).

2.3. What are the underlying drivers of the problem?

Among the few studies available concerning the implementation of the scheme, the Commission Report to the Council on the implementation of Regulation (EEC) No 2082/92 (COM(1999) 374, 19.7.1999)⁵ is the most exhaustive. The report identifies several causes for low implementation of the scheme on the basis of a questionnaire to the MS. Its main findings are summarised below.

At the time of its introduction, the TSGs scheme was completely new and unfamiliar concept to the producers. 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.

It included the notions of 'specific' and of 'traditional character' that were not defined and consequently their elements were often used interchangeable. In order to be registered, a name should be either 'specific in itself' or 'express the specific character' of the product. The latter criterion has turned out to be problematic.

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 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.

Registration provided for in Article 13(2) provides reservation 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 registration would be obviously clearer to the producer (and

⁴ http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2009/sec_2009_0670_en.pdf

⁵ http://ec.europa.eu/agriculture/quality/policy/reports/1999_0374_en.pdf

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 the 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. It has been argued that the producers often prefer to keep their recipes, which they regard as the key to their method of production, a closely guarded secret. In other words - this non-exclusivity may have discouraged some producers from opting for this scheme.

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. It can be argued that the administrative capacity needed for preparing a registration application can be an obstacle, in particular in case of products that are produced by a limited number and/or size of producers.

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 tailored control requirements can be considered as one of the disincentives for producers to submit registration applications.

Low awareness of the scheme can be observed by both producers and consumers. As already pointed out, TSGs introduced completely new concept. The fact that it was established and promoted together or 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.

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 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 was to be expected from the use of TSG symbol and therefore the scheme could hardly be used as a tool to differentiate the products.

2.4. 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 are adversely affected by the failure of the TSG scheme. For the reasons explained above, producers rarely opt for TSG registration as a tool which would help them differentiate their products and to achieve better returns on the market. That is even more often the case for the artisan small-scale producers and processors (SMEs) that presumably use traditional methods of production and/or ingredients for their products that are marketed locally or regional specialities. However, there are examples like Boerenkaas

which clearly shows there is a need for and a value added of the scheme (see Box below). The 2007 study concluded that without the STG protection the traditional product (with higher production costs) would have disappeared from the market.

Box: Boerenkaas

Finally, in terms of rural development, protection of the authenticity of *boerenkaas* is crucial in order for *boerenkaas* producers to recapture the higher production costs in comparison with factory cheese. Without such protection, *boerenkaas* has little chance to survive in the market. This will not only end an opportunity for farmers to generate income, but also an important Dutch tradition. In addition, schemes that help to improve the quality of *boerenkaas* as such are important in order to compete with the increasing number of premium factory cheeses in the market.

Case study 2. Boerenkaas, presented at the Conference “Food Quality Certification – Adding Value to Farm Produce”, 5-6 February 2007, Brussels

http://foodqualityschemes.jrc.ec.europa.eu/en/documents/Casestudies_2-Boerenkaas.pdf

- *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 few 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.
- *Size of the traditional market*: An FAO study (see box) suggests that the traditional food market is substantial in Europe. However, no quantification has been made of the market for 'traditional product' in the EU. The other main EU quality schemes also include traditional elements: the PDO-PGI scheme relies on savoir faire of producers (built up over time) and reputation of specific production from a region. Most if not all applications include descriptions of the long use and traditional origins of the product. The organic scheme also, is to a limited extent, viewed by consumers as reflecting traditional values. In fact in organic farming, innovative and recently developed techniques are employed in conformity with the principles of organic farming, but the traditional image is an element in its consumer appeal (non use of GMOs; synthetic products, etc.) The economic weight of these schemes is in the order of 12 to 14 billion euros (wholesale prices) in the EU – each equivalent to the size of the horticulture sector, or 2-3% of the entire agri-food business sector. It cannot be concluded from these known figures that the potential market for the TSG segment is in the same order. However, the anecdotal and qualitative assessments point to the existence of a substantial potential for authentic traditional agricultural product market segment.

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)

<ftp://ftp.fao.org/docrep/fao/meeting/013/K2473E.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 and restaurants, farmers' markets and festivals etc. would benefit several *local actors* involved.
- Increased sales of traditional and locally produced specialities through the retail chains demonstrate the non-local actors may benefit.
- *Authorities* by promoting their culinary heritage what would include managing the register of traditional products, checking the compliance with criteria and/or authorising the use of the traditional name and/or indication-logo or supporting the promotion activities.
- *International dimension*. TSG scheme is subject of the notification to WTO under the TBT Agreement (Technical Barriers to Trade). Scheme is open to 3rd countries' applicants.

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

Taking into account several aspects of the problem explained before, it could be expected that only few names would continue to be registered. At present there are 15 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.

This is further explored under 'Option 0: Status Quo'.

2.6. Does the EU have the right to act?

The present IA is about assessing the way forward for an 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 43 of the TFEU (ex Article 37 TEC) provides the legal basis valid for status quo and simplification options. For the option that an optional reserved term is introduced within marketing standards i.e. Regulation (EC) No 1234/2007 adopted on the basis of Articles 42 and 43 of the TFEU (ex Articles 36 and 37 TEC).

The scheme was introduced in 1992 in the context of the reorientation of the common agricultural policy to encourage diversification of agricultural production. Promotion of specific products was to benefit 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.

The TSG scheme contains two main instruments: registration of terms **with reservation** of the name and registration **without reservation**. These should be considered separately.

2.6.1. Registration with reservation instrument

- In the context of the completion of the internal market in foodstuffs, the instrument should enable the economic operators to enhance the market value of their products using a protected name while protecting consumers against improper practices and guaranteeing at the same time fair trade.
- For protection of a term throughout the EU – meaning that operators who do not qualify for using the term are prevented from doing so – it is difficult to see any alternative to EU (or international) action. This is the case for protection of trade marks, where national marks only apply within the Member State concerned and a trade mark valid in the EU can only be adopted through an EU office created for that purpose (OHIM in Alicante). The alternative, that a Member State can notify reservation of a term to other Member States and have it binding in their territory, would risk discriminating against stakeholders in the other Member State and it is unlikely to be considered acceptable. Therefore, where reservation of terms throughout the EU is concerned, action is justified – and indeed required – at EU level and not at national level.
- Concerning the tasks for processing applications for reservation of names assigned to the Member State level and to the Commission, the scheme provides for that applications are be prepared by interested parties and examined by Member States. The EU action ensures coherence by registering the names or rejecting the unsatisfactory applications. EU action therefore respects the principle of proportionality.

2.6.1. Registration without reservation of the name

- In the case of TSG names registered without protection of the name, the purpose of the registration is limited to the **identification** of product. The rights of competing producers are not affected by registration: they can continue to use the name on product. In this case, the need for EU intervention is more difficult to justify. If this kind of registration were undertaken at Member State level, even though the traditionally-identified product could be marketed throughout the EU without difficulty.
- Concerning use of the logo and labelling with "TSG", for reasons of not misleading consumers and fair competition, there should be harmonised rules to their use, which

points to EU level involvement. However, if the purpose is only to identify product as traditional, this could be done by Member States using their own scheme (as is the case in several Member States.)

- In sum, the need for EU-level involvement in the identification and listing of product as traditional is not shown, while harmonised use of a logo and indication (TSG) does require a degree of EU level involvement.

3. OBJECTIVES

Current scheme

The objectives of the current scheme are set out in the recitals 2) and 3) of the Regulation (EC) No 509/2006 in force.

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."

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:093:0001:0011:EN:PDF>

General objective

The above problem definition and its drivers lead to the setting of an **overall objective** to enable and facilitate the communication to consumers about traditional agricultural products and foodstuffs.

The legal framework should be adapted to become relevant and attractive to producers and put in line with the subsidiarity principle discussed in point 2.6. Registration and marketing of TSGs with EU logo would address the problem of asymmetric information and contribute to achieving the Treaty-based goals and the policy objectives as spelled out in the Box above.

Operational objective:

- to protect at EU level valuable names describing EU traditional speciality agricultural products and foodstuffs and facilitate information about their traditional attributes throughout the single market.
- to increase the marketing profile of EU traditional speciality agricultural products and foodstuffs.

Indicators:

- Number of registered names.
- Public awareness of protected traditional product names

4. POLICY OPTIONS

4.1. Option 0: Status Quo

4.1.1. Basic approaches

This option envisages the continuation of the current scheme i.e. no policy change. It was in effect discarded by the First Impact Assessment but as a baseline scenario it is included in the present IA report.

4.1.2. Screening for technical and other constraints

Although the importance of maintaining the current scheme has been emphasised by several Member States and stakeholders, this has not materialised in the number of new applications. In fact, stakeholders share a belief that the scheme has not reached its potential – to do so the scheme cannot continue in its current form but needs to be improved.

The TSG scheme is operated as a certification scheme (having a specification laid down and third-party checks to guarantee compliance) (see Box below).

Box: Benefits and costs of Food Quality Assurance Schemes

FQAS Benefits

- **Producer Benefits**
 - Market access (e.g. ability to supply a market)
 - Higher incomes
 - Better prices for raw materials
 - Protection of artisanal processing
- **Retailer Benefits**
 - Assured compliance to standards
 - Reduced control requirements /cost reductions
- **Consumer Benefits**
 - Assure food safety
 - Animal welfare
 - Guarantees of product authenticity / traditional production methods
 - (Premium product with superior organoleptic qualities)
- **General Benefits**
 - Employment (e.g. regional processing)
 - Immaterial benefits (e.g. support traditions)
 - Public goods (e.g. landscape conservation)

FQAS Costs

- Two types of cost: “direct” and “indirect”
- **Direct costs relate to:**
 - membership fees, inspections and certification
- **Indirect costs relate to:**
 - Compliance with FQAS standards (investments costs for upgrading facilities) and recurrent production costs
- **Directs costs generally modest, indirect costs much higher and more difficult to quantify**

Summary of case studies undertaken by the JRC, Conference “Food Quality Certification – Adding Value to Farm Produce”, 5-6 February 2007, Brussels,
http://foodqualityschemes.jrc.ec.europa.eu/en/documents/gay_gijsbers_en.pdf

4.1.3. *Assessment of effectiveness, efficiency and consistency*

Taking into account that several aspects of the problem the scheme contains (as described earlier) it could be expected that only few names would continue to be registered. This assumption is supported by the fact that at present there are 15 applications for registration as TSG. As a consequence, it can be concluded that without a change in the policy instrument the objectives of the scheme would not be achieved. In other words: the current scheme can not be regarded as effective.

The efficiency of the scheme is questionable since it contains a possibility of registering a name without the reservation. Furthermore, heavy administrative burdens (registration procedure, control) should also be taken into account in the assessment of the scheme efficiency.

Despite the fact that the provisions of the Regulation were streamlined in 2006 this option could not be considered as coherent with the Better Regulation objective by reducing 'red tape' nor it would have impact on the objectives of Common Agricultural policy (CAP) as laid down in Article 39(1) of the TFEU (ex Article 33(1) of TEC), in particular regarding income (point (b)).

4.2. **Option 1: introducing the term 'traditional' as optional reserved term under marketing standards and abolishing the current scheme**

4.2.1. *Basic approaches*

Most TSG names have been registered without reservation of the name, serving only to identify the traditional product-speciality and not to protect the name. Therefore introduction of a defined reserved term for "traditional product" would be an option.

4.2.2. *Screening for technical and other constraints*

Taking into account the results of public consultations on labelling of non-obligatory information (see box), 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 although certain reservations have been voiced by the processors (Annex I). In fact, industry (being one of stakeholder) repeated its opposition to the idea of legislating so called voluntary information when consulted in regard to revision of food labelling legislation.

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)

This option would not entail registration. Defining the term 'traditional' would mean that when used by operators the product bearing it on the label would comply with the definition. In other words, no other interpretation of 'traditional' self-claims for the agri-food products would be possible.

However, defining the term might turn out as not being an easy task. At present several definitions exist (Regulation (EC) No 509/2006; example in box below) which indicate the possible elements or aspects the definition of a reserved term should or could include. In this regard different consumers' perceptions and thus their expectations vary considerably in relation to certain characteristics of traditional food products. 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. The definitions in the box below are either highly subjective, or define the term traditional by reference to concept equally hard to define (e.g. authentic).

TRUEFOOD's definition of traditional food products

TRUEFOOD – Traditional United Europe Food is an Integrated Project (IP) financed by the European Commission under the 6th Framework Programme for RTD on the basis of qualitative pre-study developed its working definition of traditional food products that included 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.

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

The working definition was largely confirmed in this quantitative study of 4.828 respondents in six European countries (BE, FR, IT, Norway, PL and ES) providing a consumer-driven definition of traditional food products as:

Traditional food product is frequently consumed or associated with specific celebrations and/or seasons, transmitted from one generation to another, made in a specific way according to the gastronomic heritage, distinguished and known thanks to its sensory properties and associated to a certain local area, region or country.

<http://www.truefood.eu/page.asp?ID=23>

European consumers seemed to define traditional foods as “well-known” foods, that one “can eat often” and that were eaten already by “our grand-parents”. Conversely, traditional foods were less strongly associated with being “natural and low-processed”. With regard to cross-country differences, the least discrepancy was found for statements related to the common character of the product and its long existence, hence the statements that were most strongly associated with traditional foods (results not shown). Issues that were subject to the highest between-country discrepancy were related to the special character of the product. Especially in Poland, and to a lower extent in Italy, France and Spain, consumers were found to associate “specific sensory properties” significantly more with traditional foods than in Belgium and Norway. The same appeared for the association with “special occasions” and “contain a story”, even more pronounced in the Polish sample.

http://www.truefood.eu/files/library/files/abstracteaae_vanhonacker_et_al_wp1.pdf

Regarding the proper implementation of the reserved term, the same control 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.

Beside 'traditional' other terms that are considered as voluntary mentions in food labelling (see box) are not regulated horizontally at the EU level, and very often not at the national level. According to the proposed Regulation of the European Parliament and of the Council on the provision of food information to consumers (COM(2008) 40 final)⁶, currently in a process of adoption, such an arrangement is foreseen for the future.

On the other hand, several (optional) reserved terms are defined within the Single Common Market Organisation (Single CMO Regulation⁷) to indicate value-adding characteristics and attributes, such as farming method of the agricultural products e.g. ‘farmhouse’, ‘free range’. These terms do not have to be used to describe product in commerce or on labels, but if they

⁶ <http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/publications/3359-en.pdf>

⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007R1234:EN:NOT>

are used, the product must correspond to the definition laid down⁸. Many respondents to the Green Paper were favourable to optional reserved terms (Annex I).

Therefore it seems opportune that a coherent legal framework is established for the value adding reserved terms applicable to agricultural products. The system would encompass the existing terms and laid down rules for introduction of new ones, including the term 'traditional'.

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 trade mark in order to market products. A diversity of associated claims, such as “natural”, “old”, “farmhouse”, “original”, “rustic”, “classic”, etc. are used.

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>

⁸ http://ec.europa.eu/agriculture/quality/policy/consultation/greenpaper_en.pdf, point 2.2. Reserved terms within marketing standards, p. 8

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 this option. It can be argued that labelling solution seems adequate for small scale producers and SMEs which often market their product locally and/or through short distribution channels. Also, the appeal to consumers that would be decisive when making purchasing decisions is not known. Nevertheless under this option policy objectives seem likely to be achieved.

If burdensome registration is avoided than this option can be considered as being more efficient. On the other hand, there will be adjustment costs for registered and applied names for registration as a TSG. This option would result in loss of status for existing registered names, and frustration for those with applications en cours. Therefore transitional period for other labelling or intellectual property solutions would need to be offered for them, in particular for reserved names (A few names can probably be protected as PGIs.)

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 39(1) of the Treaty, in particular regarding income (point (b)).

However, the technical barriers to a workable and useful definition of 'traditional' applicable across all agricultural product sectors seems insurmountable.

4.3. Option 2: abolishing the current scheme, traditional products managed in national or private schemes

4.3.1. *Basic approaches*

The idea for this option is that the existing EU scheme would be discontinued and EU would not adopt specific legislation in regard to traditional products. Regulating traditional specialities, including definition of traditional products and its implementation (e.g. identification, registration, promotion) would be left to Member States and/or regions or to the private actions. This option excludes protection of names at EU level, except via a mechanism such as PDO-PGI or Community trade mark.

Some MS and/or regions already have systems for identification of traditional product in place. However, it should be noted that this option envisages no EU recognition nor registration and thus there would be no EU visibility of traditional products.

4.3.2. *Screening for technical and other constraints*

Member States/regions by responding to stakeholder demands could put in place a system to identify and or register traditional specialities as some already have (see examples in boxes⁹).

'Prodotti agroalimentari tradizionali' in Italy

⁹ In June 2010 DG Agri carried out a survey on existing instruments at national or regional level which define/identify/register/promote the agricultural local/traditional/artisanal products.

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

- Traditional agri-food 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/>

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>)

Produs Atestat Traditional in Romania

Criteria for participation: product obtained of the traditional raw materials, which represents traditional composition or traditional method of production and which is distinguished from the other similar products of the same category.

Registration procedure: producer submits an application to the regional authorities. After the control, the authorities include the name to the list/register.

Advantages: producer receives a certificate for the product which can be marketed as "Produs Atestat Tradițional". There is no reservation of the name. Certificate is used in the public promotion campaigns /fairs, etc. No logo.

Controls: verification of compliance with specifications is carried out by the local public authorities (ie no costs). No certification is envisaged.

Use: some 2-3000 products listed.

http://www.onpterv.ro/index.php?option=com_content&view=article&id=7&Itemid=7

Jakość Tradycja in Poland

The collective certification mark 'Quality Tradition' has been initiated by the Polish Chamber of Regional and Local Products in order to highlight promote and protect regional, local and traditional products of high quality.

In order to participate in the scheme a producer is expected to submit a specification of a product and provide evidence showing that:

- raw materials come from organic farming practices or semi-intensive production holdings using good agricultural practices and animal breeding, excluding GMO's;
- the product matches higher quality standards to those required by legislation or the product is unique due to its traditional means of production (i.e. the production method should remain the same for the last 50 years) or due to usage of rare or traditional ingredients, traditional plant varieties or animal breeds (which must be in commercial use before 1956)
- the product cherishes a very high reputation among consumers which makes it clearly distinguishable from other products of the same category.

By May 2010, 28 products have obtained the certificate; other applications are awaiting final decision.

<http://www.produktyregionalne.pl/biuletyn.html>

4.3.3. *Assessment of effectiveness, efficiency and consistency*

The Italian and Romanian schemes for listing traditional product have several thousand names entered. This underlines the potential for all Member States to identify and give profile to traditional products. The national and regional authorities who operate these schemes are by definition closer to the operators and other stakeholders of traditional products what points to a high level of efficiency and the high uptake to good effectiveness.

While the definitions and criteria for inclusion in the national schemes are similar there are differences and a lack of harmonisation. While in theory this could lead to distortions of competition and misleading consumers (reducing effectiveness), provided the national schemes are clear and transparent, these problems will be minimised.

National schemes would need to be in conformity with EU rules, particularly in relation to unjustified restrictions on supply of national raw materials and other single market rules.

Provided burdensome registration procedures are avoided, Member State/regional registration could be considered as being effective as well as efficient.

The option does not address protection of names at EU level. For this producers would need to use the trade mark system, for which there is no guarantee or necessity that trade marks correspond to genuine traditional product.

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 39(1) of the Treaty (ex Article 33(1) of TEC), in particular regarding income (point (b)).

4.4. Option 3: simplifying the current scheme and allow only registration with reservation of the name

4.4.1. Basic approaches

If the TSG scheme continues, it should be simplified. The current scheme provides that a name can be registered with or without reservation of the name. Going back to the original proposal by allowing only one type of registration, with reservation of the name, would streamline the scheme.

In case registration with reservation of the name, the registered name could only be used for the product made in accordance with the specification. That would certainly make the scheme more understandable to both producers and consumers. Allowing 2 types of registration was identified as the main concern in regard to the scheme (see point 2.3).

It should to be noted that all applications in recent years applied for registration with reservation of the name. Also, the option seems better suited for registration of names of products that are produced and marketed at a larger scale in contrast to the local traditions although there are few registered names for the later.

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 I). Furthermore, the Council, the European Parliament and European Economic and Social Committee with an exception of the Committee of the Regions were of the opinion that the scheme should be maintained and improved (as summarised in Annex II). It has been noted that stakeholders/MS/institutions did not indicate what-how the scheme should be improved.

4.4.2. *Screening for technical and other constraints*

As a consequence of abolition of registration of names without its reservation the register would contain only one list of names recognised throughout the UE. Beside this, further simplifying and streamlining of the existing legal framework that would directly addressed several criticisms and misgivings as indicated in point 2.3 would be opportune. In this regard the following could be considered:

- to adjust the product coverage (NB COM has already received a request for inclusion of salt and soda in the scope of Regulation);
- to streamline the registration procedure including shortening the objection period ;
- to review of the provisions regarding names could also be included. Propose to delete the possible registration of names that "express the specific character of the product". Name that are "specific in itself" to be replaced by names which have proven traditional usage or describe the traditional form of the product and explanation for being "specific in itself" (which proved to be a concept difficult to understand) would thus not to be required any more.
- to propose a revision of the definition of traditional that would include main elements of all of the aspects i.e. ingredients, traditional method and composition, and to double the required time period for transmission, from 2 to 3 generations (i.e. from 25 to 50 years) in order to bolster credibility;
- simplification of the provisions on specific character of the product since its speciality lays in the being traditional – while guarding against registration of names of products that are generic commodity products that would reduce credibility;
- make optional the often-misunderstood provisions on 'minimum requirements and procedures to check specific character' (if need be producers could specify necessary criteria and procedures);
- in order to make the scheme relevant, a comprehensive indication to both producers and consumers (e.g. "(EU) Traditional Speciality" or "Traditional product") and simplifying the logo, e.g. by removing the words (which can cause impediments to communication across linguistic boundaries).

4.4.3. *Assessment of effectiveness, efficiency and consistency*

Abolition of one type of registration would remove the confusion between the two possible registrations that both producers and consumers experience at present. As a consequence increased effectiveness of the scheme can be expected.

Efficiency of the scheme should be improved by streamlining its provisions. As a certification scheme TSG would nevertheless remain burdensome.

Abolition of possibility to register TSG without their reservation will cause adjustment costs for such registered and applied names. This option would result in loss of status for existing registered names without their reservation, and frustration for those with applications *en cours*. Therefore transitional period for other labelling or intellectual property solutions would need to be offered for them.

Option would be coherent with the Better Regulation objective by reducing 'red tape' of TSG scheme. The option would not be counter to the objectives of CAP as laid down in Article 39(1) of the Treaty (ex Article 33(1) of TEC), in particular regarding income (point (b)).

5. ANALYSIS OF IMPACTS

5.1. Option 0: Status Quo

5.1.1. Identification of impacts

Economic impacts

Competitiveness, trade, competition in internal market: Continuation of the current scheme with expected few registered names would 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 not have a significant effect on rural economy and areas by creating or preserving jobs, in particular on small scale producers and SMEs.

Operating costs and conduct of business: According to Regulation (EC) No 509/2006, a registered traditional speciality guaranteed produced within the Community has 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, TSG entail very demanding registration procedure and control requirements. Certification costs are considerable as shown in IA report for the 2009 Communication¹⁰; preparation of an application by a group can reach between 20.000 and 40.000 euro (based on employment of a part time assistant for 2 years); annual certification costs are in the region of 1500 euro per farm/producer.

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 the employment in agri-food sector can be assumed: even if better prices were to be achieved for the TSGs, their limited number would not allow concluding otherwise.

Environmental impacts

Use natural resources: Not possible to assess. Due to the expected limited number of registrations no significant effect is likely unless registered TSGs would contribute to the increase of farmers' incomes thus keeping the rural areas populated.

¹⁰ http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2009/sec_2009_0670_en.pdf, p. 44 -45.

5.2. Option 1: introducing the term 'traditional' as optional reserved term under marketing standards and abolishing the current scheme

5.2.1. Identification of impacts

Economic impacts

Competitiveness, trade, competition in internal market: Introduction of a common EU definition for traditional across all sectors (if feasible) would certainly establish a level playing field for the producers. It would prevent unfair trade practices as well as misleading the consumers thus contributing to smooth functioning of Single Market in foodstuffs. However, the shortcomings in a single definition would either be too wide or too narrow for some sectors and some producers – leading to a problem of free riding (non-traditional product sold as traditional) and exclusion of authentic product from use of the term.

Consumers : Consumer would only benefit from a clear and understandable indication on the label when making purchasing decision. Claims on the labels that a product is traditional would be easily verified against the definition and false ones sanctioned.

Specific regions/ sectors: Option could have a positive effect on rural economy and areas (on jobs and retaining rural areas populated) depending on the extent the term would be used by the economic operators.

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 businesses as shown in IA report for Communication¹¹.

Administrative burdens: Switching from the relatively burdensome certification mechanism to a simpler labelling mechanism for the purpose of identifying traditional products would reduce administrative burdens. Low administrative burdens of the labelling mechanism compared to preparing and processing applications for registration in a certification scheme would benefit both farmers and public administrations.

This option 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 (e.g. geographical indication, (collective) trade mark, labelling with 'traditional'... or none) to go for. A very valid possibility lies in registration of some names as a PGI, especially for those registered names that denominate locally produced and marketed 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 the GI definition laid down in TRIPS.

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

¹¹ http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2009/sec_2009_0670_en.pdf, p. 46 -47.

Notification to the WTO under the TBT Agreement (Technical Barriers to Trade) would 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 (like trade, catering and tourism).

Environmental impacts

Use natural resources: Not possible to assess. If the use of term had a positive effect on farmers' incomes that would help to keep the rural areas populated.

5.3. Option 2: abolishing the current scheme, traditional products managed in national or private schemes

5.3.1. Identification of impacts

Economic impacts

Competitiveness, trade, competition in internal market: An impact would by large depend on Member States/regions to establish a system for identifying the traditional product and consequently on the operators' decision to use it. 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 registered¹², while more than 2.600 in Romania¹³. The sheer numbers of products indicate that MS/regions are better placed to respond to the policy needs as well as the adequacy of the instruments employed. Numbers of products covered moreover lead to the assumption that the reason for producers participation probably lies in their economic interests.

Consumers: Consumers will benefit from having traditional product more clearly identified on the market and validated by a credible scheme. This benefit is largely separate from whether it is managed at EU or Member State level. Assuming the national schemes are transparent and do not mislead the consumer as to the essential traditional identity of the product, any differences in criteria are unlikely to lead to misleading consumers.

Specific regions /sectors: Positive effects on rural economy and areas by creating and preserving jobs, in particular for small scale producers and SMEs can be assumed. An additional impetus could be given to these specialities by EU visibility.

¹² <http://www.politicheagricole.gov.it/ProdottiQualita/ProdottiTradizionali/default.htm>

¹³ <http://stirileprotv.ro/stiri/social/avem-mii-de-produse-traditionale-atestate-in-tara-dar-nu-si-de-ue.html>

Operating costs and conduct of business: The initiatives of MS/regions seem to be suited to the needs of the agri-food sector also by not causing unnecessary charges that would discourage producers' participation.

This option would adversely affect rights acquired for the existing registered names as well as for the pending applications. TSG names that are protected would lose protected status, which would amount to a significant loss of rights to exclusive use: producers concerned would have to find alternative forms of protection (with consequent costs and burdens) or cede those rights. For TSG names that are only listed and not protected, would only lose the credence provided by the EU scheme. There does not seem to be a reason why they could not continue to use the "traditional speciality" identity which would become governed by the general labelling Directive requirements on not misleading the consumer.

For protected TSG names, 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 (e.g. geographical indication, (collective) trade mark, labelling with 'traditional'... or none) to go for. A possibility for some names lies in registration of a name as a PGI, especially for those registered names that denominate locally produced and marketed 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.

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

International trade: Abolishing the scheme would not produce any impact.

Social impacts

Employment: As already pointed out, instruments of the MS and regions play a very important role in employment in the rural areas. Beside employment in the agri-food industry other sectors like trade, catering and tourism are affected.

Environmental impacts

Use natural resources : Not possible to assess.

5.4. Option 3: simplifying the current scheme and allow only registration with reservation of the name

5.4.1. Identification of impacts

Economic impacts

Competitiveness, trade, competition in internal market:

If the current scheme is simplified and made more understandable and attractive to potential applicants, an increase in its use can be foreseen. Protection of a name provides a concrete competitive advantage to producers within the scheme.

Maintenance of protection at EU level will apply this advantage throughout the internal market.

The data available for Jamon Serrano TSG (Annex III) show that the scheme can be used to support a substantial business in traditional product. If this example were replicated across the EU then the economic impact would be significant.

Consumers: Current evidence shows that consumers are not in general aware of the scheme. The current configuration of names that are protected and names that are only identified causes confusion and impedes understanding by consumers. Thus, a simpler, clearer scheme that is focussed on protected traditional names will be better understood.

If the scheme attracts more applicants and registrations, the option will increase consumer awareness of the TSG scheme and choice of authentic traditional specialities.

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: Abolition of one type of registration means simplification although the requirements for the registration with reservation of the name would basically have to remain more or less as they are at present.

However being a certification scheme continues the related costs which can be rather considerable as shown in IA report for Communication¹⁴ (estimated at 20.000 – 40.000 euro per application + 1500 euro certification fees per producer).

This option would affect rights acquired for the existing registered names without their reservation as well as for the pending applications. In this regard, appropriate solutions would need to be envisaged for the alternatives to TSG registration.

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.

Environmental impacts

Use natural resources: Not possible to assess. Due to the expected limited number of registrations no significant effect is likely unless registered TSGs would contribute to the increase of farmers' incomes thus keeping the rural areas populated.

¹⁴ http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2009/sec_2009_0670_en.pdf, p. 44 -45.

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 0: Status Quo	+ no change for registered names and those applied for registration	– problems persist thus only few names would continue to be registered
Option 1: introducing the term 'traditional' as optional reserved term under marketing standards and abolishing the current scheme	+ establishment of common EU definition of term "traditional" agricultural product replaces divergent claims or definitions what supports Single Market + low burdens (for farmers and for public administrations) of the labelling mechanism compared to requirements of a certification scheme + low control burden: it avoids detailed certification controls and oversight	– "Traditional" definition would be difficult to apply to all sectors. If vague it would leave scope for different interpretations. An inadequate definition could result in more harm by eroding or jeopardising real traditional products – It would prevent self-claims the industry is keen on as it is for similar 'voluntary information' on labels – Little political support for abolition of TSG scheme, and strong resistance from the industry –no EU system for recognition of reserved names would be a major disadvantage – Loss of status for existing registered names, and frustration for those with applications <i>en cours</i>
Option 2: abolishing the current scheme, traditional products managed in national or private schemes	+ suitable to merely identify traditional specialities as already in some MS and/or regions + more accessible system for small local producers + no EU action can be regarded as a major simplification	– no EU system for recognition and reserved names – Loss of status for existing registered names, and frustration for those with applications <i>en cours</i> – Little political support for replacement of TSG scheme by stakeholders. – no EU recognition and thus no EU-level visibility of traditional products – no common EU definition of term "traditional" agricultural product that would replace divergent existing definitions i.e. not supporting the Single Market, consumer confusion possible
Option 3: simplifying the current scheme and allow only registration with reservation of the name	+ the need for an improved scheme is strongly preferred by the stakeholders/MS/institutions +EU system for reserved names of traditional specialities + registered name would only be used to describe the product made in accordance with the specification what would make the	– scope for simplification of TSG scheme seems rather limited (concerning control requirements and registration procedure incl. objections) – possible low level of implementation and registration of new names could be opposed – problems of registered names and those

	<p>scheme more understandable i.e. no ambiguity/confusion to both producers and consumers</p> <p>+ TSG scheme simplified by deleting one of the registration type, other improvements by streamlining the provisions</p> <p>+ as certification scheme offers assurance of qualities, authenticity and specificity of traditional products</p>	<p>applied for registration under the abolished type of registration</p>
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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 0: Status Quo	0	0	0 TSG is coherent objectives of the CAP
Option 1: introducing the term 'traditional' as optional reserved term under marketing standards and abolishing the current scheme	- Depending on the appropriate definition of the reserved term and on the operators' interest (NB industry opposed to the idea when consulted) to use it on the labels.	+ As a labelling option, reserved term is not burdensome.	+ Coherent with Better Regulation esp. if common legislative framework for optional reserved terms is established. Option can be considered as coherent with the objectives of the CAP
Option 2: abolishing the current scheme, traditional products managed in national or private schemes	0 MS/regions' instruments suited only to identify products More adequate for traditional specialities that are produced on a small scale	+ MS/regions mechanisms that are not burdensome to the businesses	0 Coherent with Better Regulation and objectives of the CAP but deficient in regard to the functioning of the Single Market
Option 3: simplifying the current scheme and allow only registration with reservation of the name	+ Scheme to allow registration and reservation of the names Scheme refocused and more attractive to producers More appropriate for pan-European traditions	0 As a certification scheme remains burdensome	+ Streamlining the legal framework is coherent with Better Regulation. Option can contribute to achievement of the objectives of the CAP.

Symbols used:

- Strong disadvantage
- Moderate disadvantage
- 0 Status quo or no benefit/ disadvantage
- + Moderate benefit
- ++ Strong benefit

All options analysed show that improvements in terms of effectiveness, efficiency and consistency compared to the status quo.

Option 1 (introducing the term 'traditional' as optional reserved term under marketing standards and abolishing the current scheme) success would by large depend on definition of the reserved term but also on the operators' interest to use it on the labels.

Option 2 (abolishing the current scheme, traditional products managed in national or private schemes) shows a deficiency in terms of coherence while Option 3 (simplifying the current scheme and allow only registration with reservation of the name) would significantly improve effectiveness in terms of better targeting, while certification remains burdensome and therefore scores less well on efficiency.

The view of the overwhelming majority of the stakeholders (Annexes I and II) was that the TSG scheme held significant potential, but needed radical improvement. Nevertheless it is clear from the data that the scheme has failed to reach its potential and that EU level action is difficult to justify in the case of listing of names that are not reserved throughout the EU.

This analysis therefore concludes by recommending:

- For the mechanism of Article 13(2) in Regulation (EC) No 509/2006, registration of names **with** reservation of the name: **Option 3** (simplifying the current scheme and allow only registration with reservation of the name). The revised TSG scheme would enable reservation of the names for traditional products throughout the Union. Although the system needs to be made more understandable, relevant and attractive to users. It must have lighter administrative procedures, while upholding the credibility of the guarantees offered to consumers. The scheme should become more effective and efficient so that the benefits it can deliver would offset the necessary costs the certification entails. The examples given in this report of the two registered names (Jamón Serrano, Boerenkaas) demonstrate a need for the scheme and that TSG can be beneficial in several ways. Lastly, it should also be stressed that option of maintaining although improved scheme was almost unanimously favoured by the stakeholders, the Member States and the EU institutions and bodies.
- For the mechanism of Article 13(1) in Regulation (EC) No 509/2006, registration of names **without** reservation of the name: **Option 2** (abolishing the current scheme, traditional products managed in national or private schemes). The development of national and/or private schemes is particularly significant for small producers as the revised EU scheme is still likely to be beyond their capacity. Therefore, Member States (and/or regions) should continue to be encouraged to maintain and develop national systems of recognition of traditional products often produced and marketed at local scale where the names are not protected throughout the EU.

7. MONITORING AND EVALUATION

The following indicators are proposed to evaluate the examined options:

	Monitoring and Evaluation
Option 0: Status Quo	No of TSG registration
Option 1: introducing the term 'traditional' as optional reserved term under marketing standards and abolishing the current scheme	No of reported cases of abuse
Option 2: abolishing the current scheme, traditional products managed in national or private schemes	No of products covered by MS/private schemes
Option 3: simplifying the current scheme and allow only registration with reservation of the name	No of registered names Survey of consumer and producer awareness of the scheme

ANNEX I : GREEN PAPER - CONSULTATION OF STAKEHOLDERS ON TSG

Question 11: Given the low take-up of the Traditional Specialities Guarantee (TSG) scheme, is there a better way of identifying and promoting traditional speciality products?

Several stakeholders saw the 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. Other improvements that were suggested are simplification of the procedure and control provisions, new logo, and extending the scope.

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

As an alternative to TSG stakeholders most frequently proposed that a reserved term be defined. Other suggestions included 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. There were also claims that traditional products were linked to local know-how and therefore an instrument of protection at regional level for local artisanal products made according to traditional methods is needed.

Question 3: To what extent is it necessary to lay down definitions of "optional reserved terms" in marketing standards at EU level? Should definitions for general terms describing farming methods in particular sectors, such as "mountain products", "farmhouse" and "low carbon" be laid down by the EU?

There was a very large consensus in favour of "optional reserved terms" to be defined at EU level in marketing standards. Only one category of stakeholders (processors) was rather against such definitions.

The same arguments in favour of reserved terms were often found: harmonisation, transparency for consumers, facilitation of intra trade, and protection of added value for producers. However, it was also commonly agreed that proliferation and unnecessary costs should be avoided.

Terms to be defined in priority would be "mountain" and "farmed", as there seemed to be a real lack of harmonisation and minimum criteria for them. The support for a "low carbon" definition was less unanimous.

http://ec.europa.eu/agriculture/quality/policy/consultation/contributions/summary_en.pdf

ANNEX II : SUMMARY OF THE CONCLUSIONS OF THE COUNCIL, RESOLUTION OF THE EUROPEAN PARLIAMENT AND OPINIONS OF THE COMMITTEE OF THE REGIONS AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE TO THE COMMUNICATION IN REGARD TO TSG SCHEME

Commission Communication on Agricultural Product Quality: product standards, farming requirements and quality schemes - Council Conclusions (10722/09 LIMITE AGRI 259)

15. NOTES that the "traditional specialities guaranteed (TSG)" scheme has yet to prove its potential but BELIEVES that the TSG scheme can still play an important role in the future and therefore INVITES the Commission to explore effective ways for improving the scheme.

<http://register.consilium.europa.eu/pdf/en/09/st10/st10722.en09.pdf>

OPINION of the Committee of the Regions on the QUALITY OF AGRICULTURAL PRODUCTS

Committee of Regions in its opinion expresses its believe that "it would be helpful to study the feasibility of establishing optional reserved terms for traditional products and products of mountain farming, bearing in mind that regional administrations could have a major role in defining these;

With regard to traditional specialities:

"25. agrees with the Commission that this scheme has failed to reach its potential, and concurs that it could be useful to examine the feasibility of introducing the term "traditional product", provided that it complies with well-defined, certifiable criteria;

26. calls on the Commission to examine and implement the necessary specific support schemes for traditional products on the one hand, and mountain products on the other, in the event that these eventually replace the current TSGs;

http://coropinions.cor.europa.eu/CORopinionDocument.aspx?identifier=cdr\deve-iv\dossiers\deve-iv-048\cdr315-2009_fin_ac.doc&language=EN

European Parliament resolution of 25 March 2010 on Agricultural product quality policy: what strategy to follow? (2009/2105(INI))

44. Considers that the instrument of Traditional Specialities Guaranteed (TSG) must be kept, whilst the corresponding rules for registration need further simplification; calls, in this respect, on the Commission to review the TSG instrument, study the possibilities of speeding up the application procedure and explore possibilities for offering better product protection under this scheme, as well as any other means which may render this particular scheme more attractive to producers; recalls that TSG is a relatively recent instrument, which explains its slow development; considers that this instrument should be better communicated to producers and allowed to become a familiar tool for quality promotion in Europe;

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0088&language=EN&ring=A7-2010-0029>

Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on agricultural product quality policy COM(2009) 234 final

3.3.4 Traditional specialities

3.3.4.1 The Committee feels that the ideas on developing a system of traditional specialities have not been sufficiently worked out. Such a system should be maintained as it represents a tool to protect the European agri-food patrimony.

3.3.4.2 Anyway, the Committee feels that it is important and necessary to define the category of "traditional specialities" more precisely. In the case of foodstuffs, traditional specialities are characterised by the use of traditional raw materials together with traditional technologies and ingredients in the production process. The difference in quality in comparison to ordinary products has to do with the specific production method (local know-how). In the case of products which are local in character, these factors cannot easily be separated from the local environment; in view of this it would be more accurate to refer to such products as so called "traditional and local specialities".

3.3.4.3 This terminology expresses the transfer (tradition) of production know-how based on the knowledge and practices of local communities (local character) over a longer period (from one generation to the next). The quality of "traditional and local specialities" therefore has both temporal (historic) and spatial (link to a geographical location) dimensions. Moreover, tradition also expresses culture which is linked to the life of local communities; culture is therefore the third dimension of the quality of "traditional and local specialities" The above-mentioned EESC opinion also discusses this issue in detail, and emphasises that quality policy and rural development, the second pillar of the CAP, are closely interlinked.

http://eescopinions.eesc.europa.eu/EESCopinionDocument.aspx?identifier=ces\nat\nat448\ces105-2010_ac.doc&language=EN

ANNEX III : EXAMPLE OF JAMÓN SERRANO, TSG

The Jamón Serrano Consortium is committed to quality as a strategy for success

In 2008, Spanish exports of cured ham and had a fall of 4.9%, reaching a volume of 21 328 tons. A negative figure contrasts with the sales of the countermark CONSORTIUM SERRANO international markets, which experienced positive growth, a true reflection of the quality philosophy that prevails in the business of the Consortium of Jamón Serrano.

According to the Tax Office, referring to the year 2008, Spanish exports of cured ham and reached a volume of 21 328 tons, which means a decrease of 4.9% compared to 2007.

Moreover, exports fell in value by 4.2%. The smallest drop in value is justified by the increase in the average price of ham exports (+0.8%), because it is changing the mix of export and increase export of different formats to the entire piece (such as sliced, etc.).

However, the fall in exports is not general in all markets, as evidenced by the development of exports to countries such as Mexico (+73%), Norway (+20%), Brazil (+36%) and Australia (+112%).

Exports of cured ham continue to focus on the EU, where countries like Germany, France, Portugal and Belgium concentrated 71% of them. It should be noted that Germany, for the first time, has become the first destination of Spanish exports.

The differentiation of Jamón Consorcio Serrano

This finding contrasts with the positive developments observed in 2008, in exports of Jamón Consortium Serrano. In particular, last year, were sold in international markets, the countermark 604 086 hams CONSORTIUM SERRANO (representing a growth of 1.1% compared to the previous year's data).

These figures are a true reflection of the success of a strategy pursued externally based on quality and differentiation in the external promotion of a quality Jamón Serrano, always marketed under the countermark CONSORTIUM SERRANO. In fact, that distinction for the quality remains the key to success for the consolidation of any product in international markets.

A quality seal

The Consortium of Jamón Serrano is the association of the leading producers and exporters of cured ham, which promotes international markets the marketing of high quality ham under the countermark CONSORTIUM SERRANO. Their rigorous quality control, their exacting specifications and piece by piece selection ensures that only the best ham is sold with the countermark CONSORTIUM SERRANO.

<http://www.elgranjamon.es/noticias/1333/el-consorcio-del-jamon-serrano-espanol-apuesta-por-la-calidad-como-estrategia-del-exito-internacional/> (NB machine translation from Spanish)