EUROPEAN
COURT OF AUDITORS

Special Report No 11 / 2011

ISSN 1831-0834

DO THE DESIGN AND MANAGEMENT OF THE GEOGRAPHICAL INDICATIONS SCHEME ALLOW IT TO BE EFFECTIVE?

CURIA RATIONUM

EN

Special Report No 11 // 2011

DO THE DESIGN AND MANAGEMENT OF THE GEOGRAPHICAL INDICATIONS SCHEME ALLOW IT TO BE EFFECTIVE?

(pursuant to Article 287(4), second subparagraph, TFEU)

EUROPEAN COURT OF AUDITORS

EUROPEAN COURT OF AUDITORS
12, rue Alcide De Gasperi
1615 Luxembourg
LUXEMBOURG

Tel. +352 4398-1
Fax +352 4398-46410
E-mail: euraud@eca.europa.eu
Internet: http://www.eca.europa.eu

Special Report No 11 // 2011

A great deal of additional information on the European Union is available on the Internet.
It can be accessed through the Europa server (http://europa.eu).

Cataloguing data can be found at the end of this publication.
Luxembourg: Publications Office of the European Union, 2011

ISBN 978-92-9237-267-5
doi:10.2865/75364

© European Union, 2011
Reproduction is authorised provided the source is acknowledged.

Printed in Luxembourg

CONTENTS

PARAGRAPH	
	GLOSSARY
I–VI	**SUMMARY**
1–11	**INTRODUCTION**
1–7	**THE PRINCIPLES OF THE GEOGRAPHICAL INDICATIONS SCHEME**
8–11	**THE ECONOMIC POTENTIAL**
12–16	**AUDIT OBJECTIVE, SCOPE AND APPROACH**
17–55	**OBSERVATIONS**
17–32	**SHORTCOMINGS IN REGULATORY PROVISIONS AND MONITORING OF THE MEMBER STATES' CHECKS**
18–22	THE PROVISIONS FOR CHECKS OF COMPLIANCE OF PDO AND PGI PRODUCTS WITH THE PRODUCT SPECIFICATION DO NOT SET MINIMUM REQUIREMENTS
23–27	LACK OF A CLEAR LEGAL DEFINITION FOR THE CHECKS AIMED AT THE DETECTION AND SUPPRESSION OF DISALLOWED PRACTICES
28–32	WEAKNESSES EXIST IN THE COMMISSION'S SUPERVISION OF MEMBER STATES' CHECKS RELATED TO THE GEOGRAPHICAL INDICATIONS SCHEME
33–38	**THERE IS A POTENTIAL TO ATTRACT FURTHER PRODUCERS, BUT IT IS AFFECTED BY LENGTHY PROCEDURES AND A LACK OF AWARENESS**
33–35	POTENTIAL EXISTS FOR ATTRACTING FURTHER PRODUCERS TO JOIN THE GEOGRAPHICAL INDICATIONS SCHEME
36–37	LENGTHY REGISTRATION PROCEDURES DISCOURAGE POTENTIAL APPLICANTS
38	THE MEASURE AVAILABLE IS ONLY INDIRECTLY RELATED TO ATTRACTIVENESS

39–55 **CONSUMER RECOGNITION OF THE GEOGRAPHICAL INDICATIONS SCHEME IS LOW AND THE OPTIONS USED ARE UNLIKELY TO INCREASE IT**

39–40 CONSUMER RECOGNITION OF THE GEOGRAPHICAL INDICATIONS SCHEME IS LOW

41–55 THE OPTIONS USED ARE UNLIKELY TO RAISE AWARENESS OF THE GEOGRAPHICAL INDICATIONS SCHEME

56–62 **CONCLUSIONS AND RECOMMENDATIONS**

REPLY OF THE COMMISSION

GLOSSARY

Applicant group: An association, irrespective of its legal form or composition, of producers and processors dealing with the same agricultural product or foodstuff. It submits the application for registration of a product name as a PDO or PGI to the national authority responsible for scrutiny.

Article 11 checks: Member States' checks to verify compliance of a PDO or PGI product with its product specification before it is placed on the market. The checks are provided for by Article 11 of Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.

Common agricultural policy: A system of EU agricultural aids and schemes.

Competent authority: Central authority of a Member State responsible/competent for the organisation of official controls for checking compliance of a PDO or PGI product with the product specification and surveillance of the use of the name in the market place.

Disallowed practices: Unauthorised use, misuse, imitation or evocation of a protected name or other practices misleading the consumer as to the true origin of a product.

EAFRD measure No 132: Financial support provided to farmers for costs arising from participation in food quality schemes, including the GI scheme.

EAFRD measure No 133: Financial support provided to producer groups to inform consumers and promote products belonging to the food quality schemes, including the GI scheme.

EU agricultural product quality policy: A set of EU schemes that aim to highlight individual product qualities resulting from a particular origin and/or production method.

Geographical indications (GI) scheme: A scheme that intends to protect names that identify products whose given quality, reputation or other characteristic are essentially attributable to their geographical origin. Depending on the degree and type of association with a specific region, it distinguishes between two types of protected names — PDO and PGI.

Product specification: A document that forms part of the application for registration of a name as a PDO or PGI. It sets out important attributes of the product such as the name protected, the description of the product, the definition of the geographical area, the method of obtaining the product and details bearing out the link between the product and the geographical area. A product marketed under a protected name needs to comply with the product specification.

Protected designation of origin (PDO): Names registered as a protected designation of origin describe products having characteristics resulting essentially from the geographical area and the abilities of the producers in the area of production. All stages of the production take place in the geographical area concerned. There must be a close link between the products' features and their geographical origin.

Protected geographical indication (PGI): Names registered as a protected geographical indication describe products having specific characteristics or a reputation associating them with a given geographical area where at least one stage of the production takes place. If the products are processed, the raw materials may come from another geographical area.

Rural development programme: A key programming document prepared by a Member State and approved by the Commission for the planning and implementation of the EU's rural development policy. Current rural development programmes cover the period 2007–13.

Single document: A document that forms part of the application for registration of a name as a PDO or PGI and which is scrutinised by the Commission. It sets out the main features of the product specification and a description of the link between the product and a particular geographical area.

SUMMARY

I.
The European geographical indications scheme aims to protect the names of products whose characteristics are associated with the geographical area in which they are produced. Depending on the degree and type of association with a specific geographical area, it distinguishes between two types of protected names — PDO and PGI.

II.
The geographical indications scheme provides a potential economic opportunity for farmers and producers of food and can have a positive impact on the rural economy. To achieve this objective and provide the intended protection, an appropriate EU framework needs to be in place. The Court examined whether the scheme's control system is conceptually robust, whether the procedures and measures used render it attractive to potential participants and whether the measures available and the Commission's actions have contributed to increasing consumer awareness.

III.
Checks relating to the geographical indications scheme aim to verify compliance of a PDO or PGI product with a product specification and to detect instances of disallowed use of a protected name. The audit showed that further clarification on the design of the control system for these checks is needed. The provisions in the EU regulation on checks of compliance with food and feed law, animal health and welfare rules do not set out minimum requirements for Member States' checks related to the geographical indications scheme.

SUMMARY

IV.
Regarding the Commission's supervision of Member States' checks related to the geographical indications scheme, no service within the Commission has sole responsibility for carrying out audits of the scheme and no such audits have been carried out so far. A systematic desk review only recently started, revealing incomplete information in Member States' reporting.

V.
The effectiveness of the geographical indications scheme is affected by the extent to which it is used by producers and the level of consumer awareness of it. Potential exists to attract further producers to join the scheme, especially where the take-up is low, but the procedure for the scrutiny of applications is lengthy and discourages them. In addition, producers are often not aware of the existence of the scheme. A study carried out on behalf of the Commission demonstrates low rates of consumer recognition of the scheme's symbols and concept. Whilst this situation calls for action to raise awareness of the geographical indications scheme, no overall strategy addressing this issue exists at EU level. A series of measures and actions is available but these appear fragmented.

VI.
The Court recommends that:

— Minimum requirements on checks of product specifications are laid down in the legal provisions on the geographical indications scheme;

— Further clarifications are given on the scope of regular checks aiming at disallowed practices. Mutual assistance rules should be adapted to the needs of the national authorities;

— The Commission should include audits on Member States' checks of the GI scheme in its plan of regular audits in the Member States;

— A clear strategy is developed for the promotion of the geographical indications scheme to producers and consumers in order to raise awareness. The Commission should explore more effective means of promoting the scheme, such as running a campaign on its own initiative.

INTRODUCTION

THE PRINCIPLES OF THE GEOGRAPHICAL INDICATIONS SCHEME

1. The EU agricultural product quality policy aims to highlight individual product qualities resulting from a particular origin and/or production method. One of the schemes, which forms part of this policy and which is the subject of this report, is the geographical indications ('GI') scheme for agricultural products and foodstuffs.

2. The GI scheme is intended to protect names that identify products whose quality, reputation or other characteristic are essentially attributable to their geographical origin. These names are considered to be intellectual property rights. The scheme is inspired by national systems, such as the French *appellation d'origine contrôlée* ('AOC') or the Italian *denominazione di origine controllata* ('DOC') which granted protection at national level.

3. The introduction of the GI scheme in 1992 aimed to provide a framework of Community rules that would allow a single harmonised EU approach for protection of the registered product names[1]. It is presently governed by Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ('the Regulation')[2].

4. The GI scheme distinguishes between two types of protected names, depending on the degree and type of association with a specific geographical area:

(a) Names registered as a protected designation of origin ('PDO') describe products having characteristics resulting essentially from the geographical area and the know-how of the producers in the area of production[3]. All stages of the production take place in the geographical area concerned. There must be a close link between the products' features and their geographical origin. Examples of well-known PDO products are 'Queso Manchego', 'Prosciutto di Parma', 'Grana Padano', 'Comté';

[1] The GI scheme was first established with Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ L 208, 24.7.1992, p. 1).

[2] OJ L 93, 31.3.2006, p. 12.

[3] Article 2(1)(a) of the Regulation.

(b) Names registered as a protected geographical indication ('PGI') describe products having specific characteristics or reputation associating them with a given geographical area where at least one stage of the production takes place. If the products are processed, the raw materials may come from other geographical areas[4]. Examples of well-known PGI products are 'Bayerisches Bier', 'Scotch Beef', 'Pruneaux d'Agen'.

5. The registration of a product name under either of the two types of the GI scheme is possible for products that concern a geographical area within the EU as well as in a third country where the product names are protected (e.g. China and Colombia).

6. As at the end of 2010, 964 product names were registered under the Regulation, of which 502 as a PDO and 462 as a PGI. There has been a constant increase in the number of product names registered since the scheme's introduction. The Commission has set itself the target of 1 100 registered product names by the end of 2012[5].

7. PDO and PGI products may be recognised by means of specific EU symbols, which are intended to provide a guarantee that the products concerned relate to a particular geographical area. The logo (or the indications 'protected designation of origin' or 'protected geographical indication') has to appear on the labelling of products covered by the GI scheme.

PDO and PGI logos

Source: Annex V to Commission Regulation (EC) No 1898/2006 (OJ L 369, 23.12.2006, p. 1), as amended by Regulation (EC) No 628/2008 (OJ L 173, 3.7.2008, p. 3).

[4] Article 2(1)(b) of the Regulation.

[5] The Commission's Directorate-General for Agriculture and Rural Development: Annual Activity Report 2010, Table 1.2, p. 6.

THE ECONOMIC POTENTIAL

8. The overall wholesale value of PDO and PGI products registered under the Regulation is estimated to be some 15 billion euro, which is equal to around 2,5 % of the expenditure for food consumption in the EU[6] and is at a similar level as the wholesale value of organic products. Graph 1 shows the percentage of the total wholesale value for the major classes of PDO and PGI products[7].

9. Studies show that PDO and PGI products usually have a higher producer price than products of the same product category without protected geographical indications. The difference in prices observed ranged from 5 % to 300 %. A key reason given in the studies for this difference is the control of quality achieved through the protection of geographical indications[8].

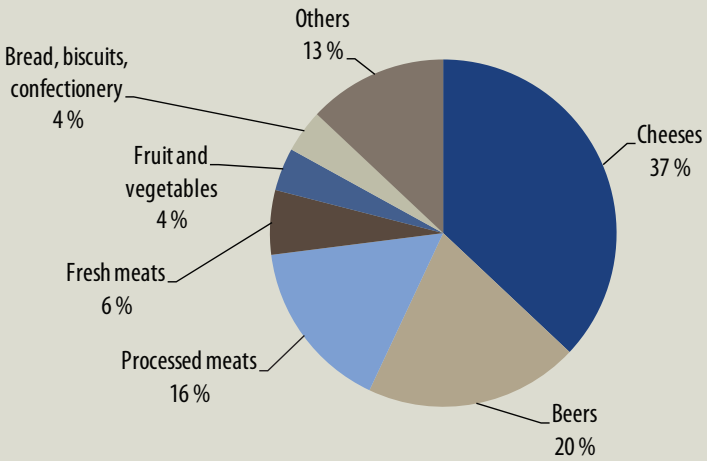
[6] AND International: 'Valeur de la production agricole sous AOP et IGP' — Final report (August 2009).

[7] Agriculture and Rural Development DG newsletter on PDO and PGI agricultural products (2010).

[8] London Economics: *Evaluation of the CAP policy on the protected designations of origin (PDO) and protected geographical indications (PGI)* (2008).

GRAPH 1

PERCENTAGE OF WHOLESALE VALUE FOR PDO AND PGI PRODUCTS



Source: European Commission, Agriculture and Rural Development DG.

10. The Regulation recognises the economic potential of the GI scheme and considers that it can be of considerable benefit to the rural economy by improving the income of farmers and by retaining the population in rural areas[9]. The Commission in its communication about the future of the common agricultural policy ('CAP') emphasised that the agricultural product quality policy, including the GI scheme, forms part of the CAP[10]. It contributes to maintaining the diversity of agricultural activities in rural areas and enhances competitiveness.

11. Financial measures exist, related to the GI scheme, which do not involve significant EU budgetary expenditure. These measures aim at promoting food quality schemes, including the GI scheme and at supporting farmers who participate in them.

[9] Recital 2 of the preamble to the Regulation.

[10] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future' (COM(2010) 672 final of 18 November 2010).

AUDIT OBJECTIVE, SCOPE AND APPROACH

12. The Regulation states that the promotion of products having certain characteristics can be of considerable benefit to the rural economy. To achieve this objective and provide the intended protection, an appropriate EU framework needs to be in place. The audit therefore aimed to reply to the question: 'Do the design and management of the geographical indications scheme allow it to be effective?'

13. The criteria used to reply to this question are:

(a) Robustness of the system defined for the checks related to the GI scheme: The producer who joins the GI scheme expects that the name of his product is properly protected against its unauthorised or improper use which may happen as a result of a higher price for registered products. The consumer who buys a PDO or PGI product expects that it originates from the specified geographical area and complies with the product specification[11]. A robust system for the checks related to the GI scheme needs therefore to be defined to fulfil the expectations of the two parties;

(b) Attractiveness of the GI scheme: The extent to which the GI scheme is successful depends on its ability to attract producers. If these have little or no interest in the scheme, it cannot have the intended impact;

(c) Consumer awareness of the GI scheme: The consumer preference for a PDO or PGI product requires that s/he is aware of the existence and the principles of the GI scheme, which guarantee that the product comes from a certain geographical area and was made according to the product specification.

14. The focus of the audit was the regulatory framework and the activities of the Commission. The Court visited the responsible departments of the Commission's Directorate-General (DG) for Agriculture and Rural Development, where interviews were held and documents examined. The Commission's Directorate-General for Health and Consumers was contacted to obtain information on its role concerning the Commission supervision of Member States' checks related to the GI scheme.

[11] The product specification concerns important aspects, such as the name of the product, its description, the definition of the geographical area, the method of obtaining the product and details bearing out the link between the product and the geographical area.

15. The responsible services in all Member States were contacted in order to obtain further evidence relating to the observations made at Commission level and additional information where available. The information was gathered by means of an online survey and visits to authorities of the Member States[12]. The online survey was carried out with all Member States and included three questionnaires[13]. The response rate was around 90 % for all three.

16. The audit dealt with the situation as at the end of 2009. Where considered relevant, subsequent developments were taken into consideration. Accordingly, in the part of the report presenting conclusions and recommendations, the proposal for a new regulation on 'agricultural product quality schemes' has been taken into consideration. The proposal concerns the GI and other quality schemes, which will be included in a single regulation[14].

[12] Germany, Greece, Spain, France, Italy, Cyprus, Poland and Portugal.

[13] 'Member States' scrutiny and assessment', 'Member States' controls' and 'Financial support/promotion'.

[14] Proposal for a regulation of the European Parliament and of the Council on agricultural product quality schemes (COM(2010) 733 final of 10 December 2010).

OBSERVATIONS

SHORTCOMINGS IN REGULATORY PROVISIONS AND MONITORING OF THE MEMBER STATES' CHECKS

17. The GI scheme is intended to protect product names registered as a PDO or PGI. Defining a robust system for the Member States' checks related to the GI scheme and supervising these checks in an adequate manner are essential to achieve this objective. Two types of checks are to be distinguished in this context:

(a) Article 11 of the Regulation refers to the obligation of Member States to verify compliance of products with their specifications before the products are placed on the market ('Article 11 checks'). The Regulation provides that a 'competent authority' is responsible in the Member States for these checks; it also allows these checks to be carried out by an independent 'control body' accredited in accordance with European Standard EN 45011[15]. The costs of these checks are usually borne by the operators;

(b) The competent authorities within Member States are also responsible for checks, which aim to detect and suppress misuse, imitation or evocation of a protected name or other practices misleading the consumer as to the true origin of a product ('disallowed practices')[16].

THE PROVISIONS FOR CHECKS OF COMPLIANCE OF PDO AND PGI PRODUCTS WITH THE PRODUCT SPECIFICATION DO NOT SET MINIMUM REQUIREMENTS

18. The Regulation does not provide for minimum requirements to be adhered to by the competent authorities and control bodies concerning issues such as the coverage of Article 11 checks, their frequency, the methodology for their selection and the parties involved in the different stages of the production and distribution subject to control. Instead of providing specific instructions on the control system, Article 10 of the Regulation[17] refers to the controls under Regulation (EC) No 882/2004 dealing with official controls verifying compliance with feed and food law, animal health and animal welfare rules[18].

[15] European Standard EN 45011 specifies general requirements that a third party operating a product certification system shall meet if it is to be recognised as competent and reliable.

[16] Various forms of disallowed practices are mentioned in Article 13(1) of the Regulation.

[17] Article 10(1) of the Regulation: 'Member States shall designate the competent authority or authorities responsible for controls in respect of the obligations established by this Regulation in conformity with Regulation (EC) No 882/2004.'

[18] Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 191, 28.5.2004, p. 1).

19. However, Regulation (EC) No 882/2004 does not specifically deal with the product specification (Article 11) checks. Most of the provisions of the regulation regarding controls are of general nature and relate to food safety, hygiene and animal health and welfare. They address issues such as sampling and analysis methods, designation of reference laboratories or the official controls on the introduction of feed and food from third countries. They are therefore not relevant to setting minimum requirements for Article 11 checks.

20. The almost complete lack of such information specific to Article 11 checks in the legal provisions related to the GI scheme has resulted in discrepancies among the control systems set up by the different Member States. An example of different practices found in the Member States visited is shown in ***Table 1***.

TABLE 1

COMPARISON OF TWO CONTROL SYSTEMS FOR ARTICLE 11 CHECKS

Characteristics of the control system	Control body (Member State 1)	Competent authority (Member State 2)
Cycle of checks (operators)	Varying: annual or multiannual (depending on the product)	Annual checks on each operator
Scope of the check	Producer	Producer, packaging firms, firms producing private label products
Entry-level check[1]	Not compulsory; first check may be carried out several years after entering the GI scheme	Compulsory for approval of the producer
Register of operators using a certain protected name (population subject to control)	No obligation for operators to be registered	Obligation for operators to be registered
Sampling (selection of operators to be checked)	Risk based	All operators are checked on an annual basis
Supervision of regional competent authorities by national authority	Despite the existence of separate competent authorities at regional level no supervision is carried out	There is only one competent authority carrying out all checks

[1] An entry-level check concerns a producer who starts marketing a product the name of which is protected as a PDO or PGI and aims to verify compliance of the product with its product specification.

Source: European Court of Auditors.

21. The table shows differences in the two control systems on a number of important issues such as the cycle of checks, their scope and the obligation of entry-level checks. Differences in the control systems were also found as a result of the analysis of the replies to the online survey. Such discrepancies undermine the objective of establishing 'a more uniform approach' required by the Regulation, which is necessary to ensure fair competition between producers of products bearing such indications and enhance the credibility of the products in the consumer's eyes[19].

22. In contrast, more information specific to the Member States' checks is available for the checks related to other EU quality schemes. The regulation dealing with the GI scheme for wine products addresses issues such as selection of the producers to be checked and the stages of the production process to be covered[20]. More information is also laid down for the Member States' controls related to organic farming, which is one of the EU quality schemes. The provisions of the regulation on organic production and labelling of organic products complement the conditions laid down in Regulation (EC) No 882/2004. They deal with issues such as the frequency of controls, the stages of the production process to be covered, the reporting obligations of control bodies and the exchange of information with competent authorities from other Member States[21].

[19] Recital 6 of the preamble to the Regulation.

[20] Commission Regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (OJ L 193, 24.7.2009, p. 60).

[21] Title V of Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products (OJ L 189, 20.7.2007, p. 1).

BOX 1

EXAMPLES OF SHORTCOMINGS IN THE VERIFICATION OF PRODUCT SPECIFICATIONS

Shortcomings in the control body's verification of the origin of the raw material for a processed PDO product were found in two of the Member States visited.

The check of the product specification of an olive oil registered as a PDO did not include a plausibility test on the average yield of olives obtained by the olive growers in their parcels. Such a test is important to determine whether the quantity of olives delivered to mills and processed for the olive oil can actually originate from the geographical area concerned.

The work of a control body that checked the product specification of a cheese registered as a PDO showed shortcomings regarding the verification of the origin of the milk used for the production of the cheese. The control body did not include in its check a verification that would address the risk that the milk used in the production of the cheese originated from farms and cows which are located outside the geographical area defined in the product specification.

LACK OF A CLEAR LEGAL DEFINITION FOR THE CHECKS AIMED AT THE DETECTION AND SUPPRESSION OF DISALLOWED PRACTICES

23. Article 13 of the Regulation refers to the obligation to protect registered names against various forms of disallowed practices. The European Parliament in this context has demanded thorough *ex officio* protection of GIs as an obligation for authorities in all Member States[22].

24. Despite the relevance of the protection of registered names against their disallowed use, no provisions are laid down in the Regulation as to what checks (if any) are required from the Member States in order to ensure such protection. The only information given by the Commission on the checks to be carried out in order to detect and suppress disallowed practices is that checks on GI products fall under Regulation (EC) No 882/2004 and consequently Member States have to consider them in their multiannual national control plan ('MANCP') mentioned in that regulation[23]. However, the extent of the Member States' obligation to carry out checks aimed at the detection and suppression of cases of disallowed practices on a regular basis remains unclear. There are no instructions on how such checks (if any) are to be carried out.

25. A number of Member States visited stressed the need to have a procedure on mutual assistance in the Regulation that would provide for a response to denunciations concerning the disallowed use of a protected name in a Member State other than the Member State of production. This issue puts into question the adequacy of the provisions laid down in Articles 35 and 36 of Regulation (EC) No 882/2004 dealing with liaison bodies and assistance on request.

[22] 'European Parliament resolution of 25 March 2010 on Agricultural product quality policy: what strategy to follow?' (OJ C 4 E, 7.1.2011, p. 25).

[23] Interpretative Note No 2009-01.

26. Most Member States do not carry out checks aimed at the detection and suppression of cases of disallowed practices on a regular basis. They usually carry out checks aimed at the detection and suppression of disallowed practices concerning PDO and PGI products only in order to address denunciations or as a secondary part of hygiene and safety checks related to foodstuffs. Where such checks are carried out, the visits to the Member States and the online survey showed a difference in the coverage of PDO and PGI products from other countries. In a number of Member States, the checks exclude such products and only national products are covered.

27. Box 2 provides examples of disallowed practices found by Member States when carrying out their controls related to food safety or following up a suspicion or denunciation and demonstrates the high risk of disallowed practices not being found due to the lack of regular checks.

BOX 2

EXAMPLES OF DISALLOWED PRACTICES FOUND BY NATIONAL AUTHORITIES

The French authorities found that a butcher had sold lamb meat to restaurants showing in his invoices a product name protected as a PGI whilst the meat delivered did not allow him to use this name. The restaurants in consequence had made unjustified reference to the protected name in their menus.

Samples taken by the Bavarian authorities in shops selling a specific type of cheese protected as a PDO showed a number of cases of disallowed use of this name. Most of the cheeses concerned did not originate from the designated geographical area and in one case cow milk had been used instead of sheep milk as provided for by the product specification.

Table olives were marketed by a processing and packaging company illicitly using a name protected as a PDO. The documentation examined by the Italian authorities showed that the olives packaged by this company were not of the variety required by the product specification.

During a check carried out by the Greek authorities at a supermarket, the name of a PDO cheese was found on the sign of the display fridge. The same name appeared on the weighing label for the product and on the purchase receipt. The supermarket should not have labelled the cheese using the protected name since the producer was not accredited and therefore not subject to product specification checks.

WEAKNESSES EXIST IN THE COMMISSION'S SUPERVISION OF MEMBER STATES' CHECKS RELATED TO THE GEOGRAPHICAL INDICATIONS SCHEME

28. Adequate supervision of Member States' control systems should comprise auditing the checks carried out by Member States and reviewing the reporting on their control activities on a regular basis.

Lack of Commission audits of the Member States' checks relating to the geographical indications scheme

29. The Regulation does not include specific provisions as to the Commission supervision of checks related to the GI scheme. Reference to supervision is made, however, in Article 45 of Regulation (EC) No 882/2004, which requires general and specific audits of the Member States' official controls by Commission experts. Whilst the Food and Veterinary Office ('FVO') of the Health and Consumers DG normally carries out audits of the Member States' official controls, it does not assume exclusive responsibility for audits of the GI scheme. It considers that the legislation refers to 'Commission experts' and, as such, there is nothing to suggest that the performance of Community controls is limited to FVO activities, nor that the FVO has sole responsibility to carry out audits in this area.

30. The Court notes that to date no audits have been carried out. The FVO explained that they have not been carried out due to its limited resources and its prioritisation of risks in terms of food safety, animal and plant health and animal welfare. Accordingly, currently the Commission does not closely monitor the implementation of the GI scheme in the Member States.

Member States' reporting concerning their checks of the geographical indications scheme is incomplete

31. Member States' reporting on checks related to the GI scheme forms part of the reporting under Articles 41 and 44 of Regulation (EC) No 882/2004, which require MANCPs and annual reports on their implementation. The Agriculture and Rural Development DG carried out an analysis of MANCPs and annual reports for the first time in 2009. This analysis covered four Member States and dealt with the existence and the extent of information on checks and protection of product names registered as a PDO or PGI. The Agriculture and Rural Development DG's analysis showed a clear lack of information on such checks, which was either missing or incomplete.

32. Information available at the Commission on the Member States' control systems is therefore very limited. Based on this information it is not possible for the Commission to obtain a clear picture about which authorities carry out checks in each Member State and what the results of these checks are.

THERE IS A POTENTIAL TO ATTRACT FURTHER PRODUCERS, BUT IT IS AFFECTED BY LENGTHY PROCEDURES AND A LACK OF AWARENESS

POTENTIAL EXISTS FOR ATTRACTING FURTHER PRODUCERS TO JOIN THE GEOGRAPHICAL INDICATIONS SCHEME

33. The extent to which the GI scheme is successful depends on its ability to attract producers. Replies to the online survey show that half the Member States' authorities assess the take-up in their country as either 'low' or 'very low' after considering the potential of products to be registered in their country for their assessment[24]. The main reasons provided for the 'low' or 'very low' take-up are:

(a) 'Operators consider that the procedures for application are too time-consuming';

(b) 'Lack of tradition in the Member State concerned for the GI scheme';

[24] Belgium, Denmark, Germany, Estonia, Ireland, Latvia, Lithuania, Malta, Netherlands, Austria, Slovakia, Finland and Sweden.

(c) 'Lack of consumers' awareness of the existence of the GI scheme';

(d) 'Lack of producers' awareness of the existence of the GI scheme'.

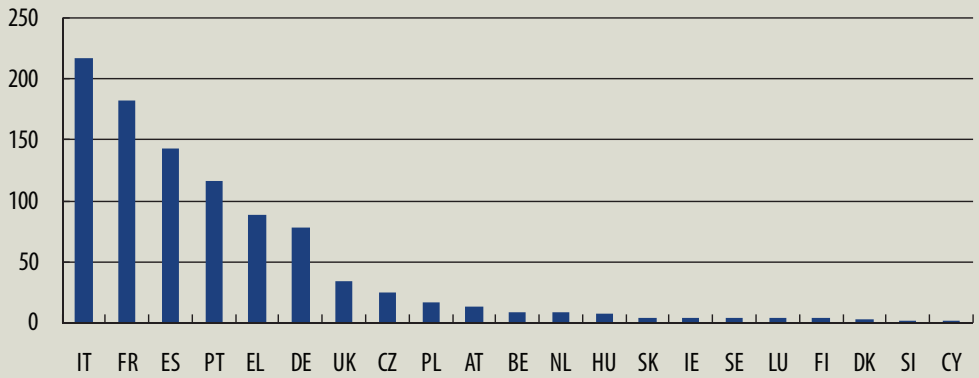
34. The spread of registered names in the Member States as at the end of 2010, shown in ***Graph 2***, corroborates the assessment made by certain Member States that the take-up in their country is low/very low.

35. The graph shows a concentration of the registered product names in a limited number of Member States: 77 % of the product names registered originate from only five Member States, whilst in 14 Member States less than five product names had been registered by the end of 2010, including six Member States where no product name had been registered[25]. This uneven spread indicates a clear difference in the attractiveness of the GI scheme amongst producers in the Member States. A probable explanation for this situation is that some Member States, such as France, Italy or Spain had similar national schemes before the introduction of the EU scheme and therefore producers in these countries have more experience and a better knowledge and interest in the scheme.

[25] Bulgaria, Estonia, Latvia, Lithuania, Malta and Romania.

GRAPH 2

PRODUCT NAMES REGISTERED AS PDO AND PGI PER MEMBER STATE[1]



[1] Two third countries (Colombia and China) had one product each registered as at the end of 2010.

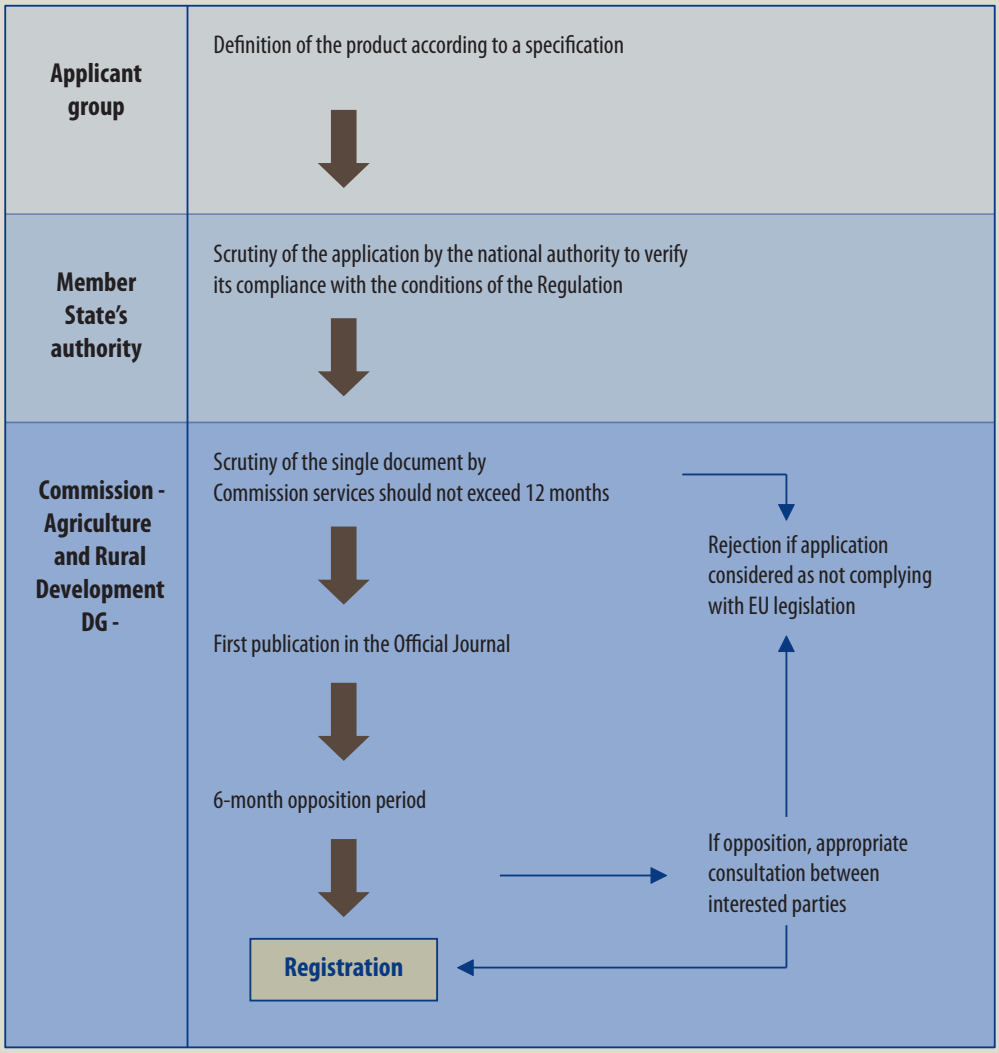
Source: European Commission, Agriculture and Rural Development DG.

LENGTHY REGISTRATION PROCEDURES DISCOURAGE POTENTIAL APPLICANTS

36. One of the main reasons provided for the low/very low take-up of the GI scheme is that operators consider that the procedures for application are too time-consuming. The Court therefore examined the procedure and the time taken for it. ***Graph 3*** presents the different stages of the procedure.

GRAPH 3

REGISTRATION PROCEDURE



Source: European Commission, Agriculture and Rural Development DG.

37. The Court found that both the scrutiny at national and at Commission level are lengthy, the latter taking on average four years[26]. The main reasons for these lengthy procedures found by the Court were a thorough national scrutiny, incomplete applications filed by the applicant groups and the time needed by the national authorities to provide additional information concerning the single document at the request of the Agriculture and Rural Development DG. It addressed the last issue by making two draft guides available in 2010, one dealing with the main elements to be checked by the national authorities and one for the applicants providing details on the completion of the single document. The impact of these guidelines on the length of the scrutiny can only be assessed in the future.

THE MEASURE AVAILABLE IS ONLY INDIRECTLY RELATED TO ATTRACTIVENESS

38. The primary instrument available to provide financial support to participants in the GI scheme is the European Agricultural Fund for Rural Development ('EAFRD') measure No 132 — Participation of farmers in food quality schemes. This measure addresses the costs incurred by farmers for their participation in EU or national food quality schemes[27]. The aid is available for products intended for human consumption and its maximum amount is 3 000 euro per holding (for a maximum period of 5 years). The measure is, however, only used by 16 Member States. Moreover, it does not address the lack of producers' awareness of the GI scheme, which in the view of national authorities is another main reason for the scheme's very low/low take-up (see paragraph 33)[28]. This latter issue is examined in the next part of this Special Report, dealing with the consumer awareness of the GI scheme.

[26] The average time needed between receiving the application and registering the product name was 47 months for names registered in 2008 and 46 months for names registered in 2009. Amendment applications were excluded from the calculations.

[27] Article 20(c)(ii) of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).

[28] As at the end of 2010, measure No 132 was included in the 2007–13 rural development programmes of 16 Member States with a total allocated amount of 294 million euro. The accumulated expenditure declared (utilisation by the farmers) for all eligible quality schemes until the end of 2010 amounts to 18,6 million euro.

CONSUMER RECOGNITION OF THE GEOGRAPHICAL INDICATIONS SCHEME IS LOW AND THE OPTIONS USED ARE UNLIKELY TO INCREASE IT

CONSUMER RECOGNITION OF THE GEOGRAPHICAL INDICATIONS SCHEME IS LOW

39. Reference to the consumer awareness of the GI scheme was made in a recent study carried out on behalf of the Commission[29]. This study included an analysis of a survey of awareness of the PDO and PGI symbols. A single page with the two symbols and three other international food symbols was shown to the consumers participating[30]. The survey included the replies of 16 718 respondents and showed that the recognition of the symbols for PDO and PGI is low. Only 8 % recognised the PDO or PGI symbols. Excluding Greece, which is an outlier, the average EU recognition rate is only 5,6 %[31]. As a comparison, the same survey identified the rate of recognition as 16 % for the organic logo and 22 % for the Fairtrade one. Details are shown in ***Graph 4***.

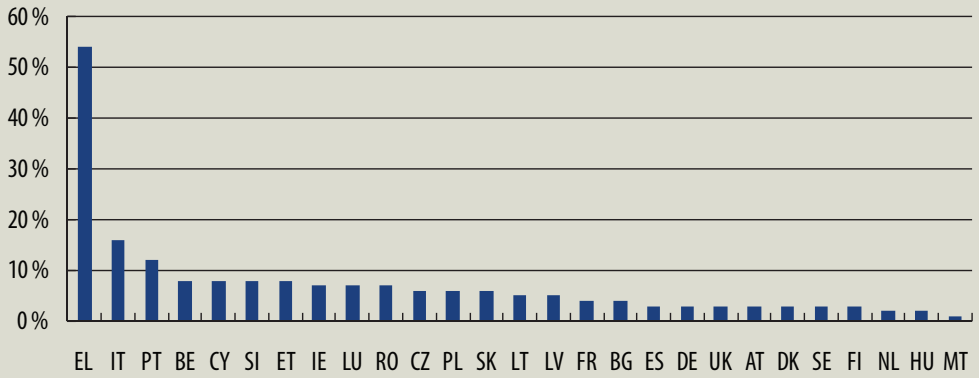
[29] London Economics: *Evaluation of the CAP policy on the protected designations of origin (PDO) and protected geographical indications (PGI)* (2008).

[30] The survey covered a representative sample in each Member State and was addressed to the main shopper of the household interviewed.

[31] An explanation provided by London Economics for the high recognition rate in Greece is the fact that the registration of the product name 'Feta' as a PDO and the related European Court of Justice cases (Joined Cases C-465/02 and C-466/02 for withdrawal of the registration) had large coverage in the Greek press.

GRAPH 4

RECOGNITION OF PDO AND PGI LOGO PER MEMBER STATE[1]



[1] The survey in the UK did not include Northern Ireland.

Source: London Economics.

40. The survey further showed that there is lack of knowledge as to the meaning of the scheme. Of those who recognised the logos only half were able to identify that they imply that the product has been produced in a particular geographical area.

THE OPTIONS USED ARE UNLIKELY TO RAISE AWARENESS OF THE GEOGRAPHICAL INDICATIONS SCHEME

41. Various options are available to raise awareness of the GI scheme, such as providing financial aid for measures which address this issue or the Commission taking own initiatives.

42. The Court has examined whether the following financial EU measures are likely to make the GI scheme better known[32]:

(a) EAFRD measure No 133 — Information and promotion activities;

(b) The measures provided for by Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries[33].

MEASURE NO 133 IS USED TO A LIMITED EXTENT BY THE PRODUCER GROUPS

43. EAFRD measure No 133 provides financial support to producer groups to inform consumers and promote products belonging to EU or national food quality schemes. The activities eligible for support under measure No 133 have to be designed to induce consumers to buy the agricultural product and foodstuffs covered by the food quality schemes. They have to draw attention to the specific features or advantages of the product concerned, the legal provisions placing therefore more emphasis on the product itself than on the GI scheme. The aid under this measure is available for 70 % of the eligible cost of the action and is limited to activities targeting the internal market.

[32] Information measures provided for by Council Regulation (EC) No 814/2000 of 17 April 2000 on information measures relating to the common agricultural policy (OJ L 100, 20.4.2000, p. 7) are considered as being of little relevance due to the low amounts of expenditure related to the GI scheme.

[33] OJ L 3, 5.1.2008, p. 1.

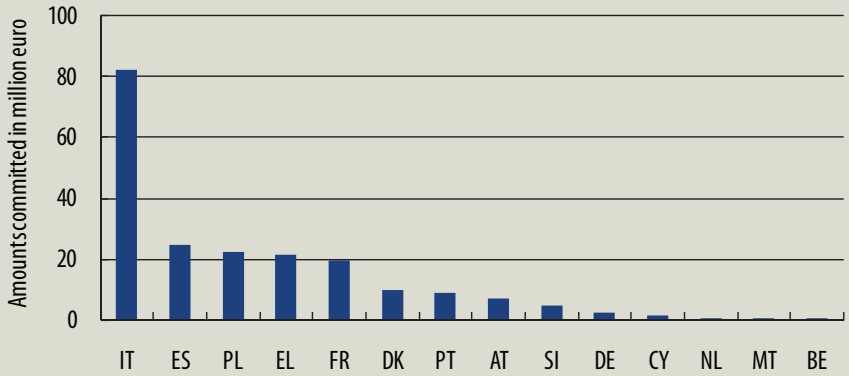
44. Data that would allow a clear conclusion to be drawn on the degree of success of measure No 133 regarding the GI scheme and more particularly on whether it increased consumer awareness of it could not be provided by the Agriculture and Rural Development DG. Due to the existence of a number of exogenous factors that affect this question, it may not even be feasible to carry out such an analysis. However, the extent of the measure's uptake by the Member States and the utilisation of the funds available reflect its appeal to producer groups and indicate its appropriateness as an option to increase consumer awareness.

45. As at the end of 2010, measure No 133 was included in the 2007–13 rural development programme ('RDP') of 14 Member States with a total amount of 206 million euro. This amount, which covers different food quality schemes, including the GI scheme, organic farming and national food quality schemes, accounts for 0,6 % of the total amount under Axis 1 of the Member States' financial plans (32 362 million euro). Details per Member State are presented in ***Graph 5***.

46. With the exception of the UK, the 13 Member States that did not include measure No 133 in their RDP had no or only a small number of product names registered as a PDO or PGI (see ***Graph 2***). An obvious reason with regard to the GI scheme is that in these Member States there are no or only few producer groups marketing PDO or PGI products which can apply for co-financing under measure No 133.

GRAPH 5

COMMITMENTS UNDER MEASURE NO 133



Source: European Commission, Agriculture and Rural Development DG.

47. The cumulative expenditure declared (utilisation by producer groups) for all eligible quality schemes until the end of 2010 amounts to 16,2 million euro and represents 7,8 % of the total amount in the Member States' financial plans for the programming period 2007–13. Based on information provided in the online survey concerning expenditure for the GI scheme in the previous programming period, the Court estimates that the total amount that will be spent for the EU GI scheme in the current programming period will be about 2 million euro (0,3 million euro on average per year).

Promotion programmes have had limited impact on the awareness of the geographical indications scheme

48. Promotion programmes under Regulation (EC) No 3/2008 are usually initiated by trade or inter-trade organisations to draw up information campaigns targeting producers and processors and need to be approved by the Agriculture and Rural Development DG. With respect to the GI scheme, they should focus on its characteristics and address the knowledge amongst target groups, including the consumers and producers.

49. Regarding the availability of data that would allow a clear conclusion to be drawn on the success (or not) of promotion programmes concerning the GI scheme and more particularly whether they increased awareness of it, the same limitation applies as for measure No 133 (see paragraph 44). However, the use made by trade organisations of the promotion measure under Regulation (EC) No 3/2008 is an indicator of its appropriateness for the promotion of the GI scheme and for addressing the awareness of the GI scheme.

50. In the period 2005–09, the Agriculture and Rural Development DG approved 25 programmes related to PDO or PGI products with the following commitments and accumulated expenditure declared until the end of September 2010:

TABLE 2: COMMITMENTS AND EXPENDITURE UNDER PROMOTION PROGRAMMES

Member State	Number of programmes	Amounts committed in million euro	Expenditure declared in million euro
Italy	12	11,7	7,8
Greece	5	6,2	3,3
France	2	4,8	4,2
Spain	2	3,6	2,8
Italy-Portugal	1	1,8	1,3
Poland	1	0,8	0,7
Portugal	1	0,5	0,0
Germany	1	0,4	0,4
Total	**25**	**29,7**	**20,6**

Source: European Commission, Agriculture and Rural Development DG.

51. ***Table 2*** shows that the uptake in the period examined was relatively low with 25 programmes (five on average per year) and total expenditure amounting to some 21 million euro by the end of September 2010 (about 4 million euro EU co-financing per year on average)[34].

52. One of the reasons for the low number of programmes undertaken is that promotion programmes for products with low economic value usually cannot fulfil the required condition of an adequate cost/benefit ratio referred to in Article 8 of Commission Regulation (EC) No 501/2008 of 5 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 3/2008[35]. Therefore, the promotion programmes approved are mostly those presented by organisations representing products with a high economic value.

[34] Another 27 programmes related to PDO and PGI were rejected in the same period.

[35] OJ L 147, 6.6.2008, p. 3.

53. The 12 programmes concerning the EU internal market concentrated on a few Member States, in particular Germany, France and Italy. The obvious reason is that trade organisations target the biggest markets with their campaigns. Consequently, awareness is addressed only in a few Member States.

54. The Court noted, for the applications coming from the Member States with the highest number of PDO and PGI promotion programmes approved, a strong focus on promotion in third countries[36]. The Agriculture and Rural Development DG in response to the question of the success of this promotion measure provided a series of evaluation studies, related to promotion in third countries[37]. These studies indicate low awareness in nearly all the countries covered. Some of the studies point out the very limited effect of EU campaigns in third countries (See ***Box 3***).

The Commission takes limited own actions to promote specifically the geographical indications scheme

55. The Commission frequently takes initiatives to publicise the CAP, e.g. by participating in fairs or organising seminars. The GI scheme is part of these initiatives, but there is no specific emphasis on it, nor has there been any promotion and information campaign exclusively for the scheme in the last few years[38]. When asked in the online survey for any additional comments on the GI scheme, five Member States stressed the need for its further promotion.

[36] Seven out of 12 Italian programmes, four out of five Greek programmes.

[37] Euréval carried out a series of evaluation studies of promotion measures in third countries, namely in Switzerland and Norway, China, India and south-east Asia, Russia, Japan as well as the USA and Canada.

[38] In the past, there was only one information and promotion programme that was initiated and financed 100 % by the Agriculture and Rural Development DG. The European Authentic Tastes ('EAT') programme was a 3-year programme (2004–07) with a 6 million euro budget. It aimed at informing the North American and Asian public about the EU's quality schemes including the GI scheme.

BOX 3

QUOTATIONS CONCERNING THE LIMITED EFFECT OF PROMOTION PROGRAMMES

'... the European promotion campaigns had almost no effect on the awareness of the European designations and logos ... Even the professionals rarely recognise the logos when they are interviewed during the survey ... The programmes have, in their majority, failed to develop in Switzerland and Norway ... the awareness of the European designations and associated logos.' (Switzerland and Norway);

'Campaigns do not get to a sufficient critical mass to reach long-term effects' (USA and Canada).

CONCLUSIONS AND RECOMMENDATIONS

56. The GI scheme is intended to protect registered product names. In addition, it aims to contribute to increased competitiveness of EU agriculture in that the economic potential of PDO and PGI products can benefit the rural economy. The extent to which the GI scheme has such an impact largely depends on the framework designed, its management by the Commission and its implementation by Member States.

57. The Court's overall conclusion is that clarification is needed on a number of issues concerning the control system related to the GI scheme and that a clear strategy is lacking on the issue of awareness concerning both producers and consumers. More detailed conclusions and recommendations are set out below, which take into consideration the Commission proposal for a new regulation on agricultural product quality schemes ('proposed regulation').

58. The current provisions do not lay down minimum requirements to be adhered to by the competent authorities and control bodies concerning checks on product specifications. The Commission in the preamble to the proposed regulation states that it includes references to the most relevant articles of Regulation (EC) No 882/2004 to help Member States better apply the provisions of that regulation. These references still do not provide a clear idea on how the control system for Article 11 checks should be set up. Furthermore Regulation (EC) No 882/2004 focuses on control aspects specific to feed and food safety, animal health and welfare which are of limited relevance to Article 11 checks.

RECOMMENDATION 1

The legal provisions on the GI scheme should set out minimum requirements for Article 11 checks. They should address issues such as the minimum coverage of checks, their frequency, the methodology for their selection and the parties involved in the different stages of the production and distribution subject to control. The possibility of setting up working groups could be considered in this context to facilitate sharing of best practices.

59. The Regulation does not address the questions of the obligatory character and nature of checks to be carried out by the Member States to prevent and detect disallowed practices. As a result, most national authorities do not carry out regular checks aimed at detecting and suppressing cases of these practices. The Commission, in the proposed regulation, lays down that Member States have to take appropriate administrative and judicial steps to address disallowed practices and that checks related to this issue form part of the Member States' official controls of the quality schemes. Additional details on the control system to be used for these checks are not provided; reference is made again to Regulation (EC) No 882/2004, which is, however, subject to the same limitations as the ones described for Article 11 checks.

RECOMMENDATION 2

Clear rules on a control system that provides for regular checks aiming at the detection and suppression of disallowed practices should be laid down in the legal provisions on the GI scheme. They should be complemented by a system of mutual assistance adequate to the specific needs of the national authorities dealing with the GI scheme.

60. Currently, the Commission does not closely monitor the implementation of the GI scheme in the Member States. No audits on the GI scheme have been carried out so far and a systematic desk review, only recently started, revealed incomplete information in Member States' reporting. This latter issue has been addressed in the proposed regulation, which provides that Member States shall include a separate section on the checks related to agricultural quality schemes in the MANCPs and the annual reports under Regulation (EC) No 882/2004. Whilst this provision is a positive step, it remains to be seen whether it would allow the Commission to have complete information on the Member States' control system and the controls carried out.

RECOMMENDATION 3

The Commission should include audits on Member States' checks of the GI scheme in its plan of regular audits in the Member States.

61. The success of the GI scheme depends, inter alia, on its usage by producers. Potential exists for attracting further producers to join the GI scheme, especially in Member States where there is a low take-up of the GI scheme. However, the measures available are not adequate to encourage these producers to participate. In addition, lengthy procedures experienced to date discourage producers from applying. The Commission in this context made available in 2010 two draft guides on the application procedure and reduced in the proposed regulation the indicative deadline for its scrutiny of applications from 12 to 6 months.

62. Consumer recognition of the scheme and its symbols is very low. The means available for promotion and information about the GI scheme are unlikely to increase it. They are used to a limited extent only and are not based on a clear strategy on how to raise awareness of the GI scheme. Various measures are available with limited success.

RECOMMENDATION 4

The Court recommends that the Commission develops a unified strategy addressing the lack of awareness of the GI scheme. It should explore more effective means of promoting the GI scheme, such as running a campaign on its own initiative.

This report was adopted by Chamber I, headed by Mr Olavi ALA-NISSILÄ, Member of the Court of Auditors, in Luxembourg, at its meeting of 20 July 2011.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

REPLY OF THE COMMISSION

SUMMARY

II.
The scheme is primarily an intellectual property right (IPR) registration system open to any applicant who meets the criteria. Registration depends only on whether the legal criteria set by the Council Regulation (EC) No 510/2006[1] are fulfilled. Producers have shown a clear interest in the scheme, as indicated by the significant number of product names registered (about 1 000) accounting for a market value of 14,5 billion euro in 2008.

III.
The legislator has chosen to apply the Official Feed and Food Control (OFFC) Regulation (EC) No 882/2004[2], within the frame of the General Food Law (GFL), also to the control of compliance of products with the product specifications established for each specific protected designation of origin (PDO) or protected geographical indication (PGI). The OFFC sets out a harmonised framework of general rules for all controls relating to feed and food control, obliging each Member State to apply it based on a risk assessment. The legislator's choice of applying an existing control system also to PDO and PGI — instead of creating a separate one — is both legitimate and justified from the point of view of better regulation. Furthermore, it should be noted that for most other intellectual property schemes the enforcement effort (and cost) is left to the interested parties, whilst the OFFC system is based on administrative enforcement allowing for an *ex officio* protection.

[1] Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.

[2] Regulation (EC) No 822/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.

REPLY OF THE COMMISSION

IV.
Audits under the OFFC, including the geographical indications (GI) scheme, are planned and executed by the Food and Veterinary Office (FVO) of the European Commission's Directorate-General for Health and Consumer Policy in full cooperation with the Directorate-General for Agriculture and Rural Development.

V.
The Commission has put in place a coherent set of different initiatives aimed at raising awareness of the geographical indications scheme:

— the Quality website[3] attracts more than 50 000 page views by more than 10 000 unique visitors per month;

— Member States make use of the option to include promotion measures (132 and 133) in their rural development programmes. Individual Member States can decide to do so on the basis of their own analysis and strategy;

— conferences with stakeholders, leading, among others, to define the most appropriate actions to increase awareness of the scheme;

— specific promotion programmes under Regulation (EC) No 3/2008[4];

— information measures under Regulation (EC) No 814/2000[5], where information about the quality of agricultural products is one of the priorities. These also include participating in agricultural fairs, conferences, seminars and round tables.

The Commission is also to redefine its promotion policy starting with the launch of a broad consultation about the future of promotion actions for agricultural products where PDO and PGI will play a prominent role.

The study referred to by the Court was conducted at a time when the use of the logo and the identifications 'protected designation of origin' and 'protected geographical indication' were not compulsory, as instead is the case since 1 May 2009.

VI. first indent
The current regulatory system based on the OFFC Regulation (EC) No 882/2004 provides for the necessary level of detail as regards the requirements of the GI checks. Within the OFFC Regulation, the specific modalities regarding these controls are left to Member States pursuant to the principle of subsidiarity. Considering the extreme diversity of concrete situations that may arise, further harmonisation is deemed inappropriate. This is without prejudice to any clarification or precisions that might be further contemplated in the overall legislative framework.

[3] http://ec.europa.eu/agriculture/quality/

[4] Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries.

[5] Council Regulation (EC) No 814/2000 of 17 April 2000 on information measures relating to the common agricultural policy.

VI. second indent
OFFC rules set out clear principles for such checks, which should be established by Member States.

Mutual assistance provisions are applicable in accordance with Title IV (Administrative assistance and cooperation in the areas of feed and food) Articles 34 to 40 of Regulation (EC) No 882/2004.

VI. third indent
As from 2011, the Agriculture and Rural Development DG and the Health and Consumers DG have agreed that the latter will include PDO/PGI related issues in its annual audit programmes in full cooperation with the Agriculture and Rural Development DG and following the same rigorous prioritisation process applied to other areas under its remit.

VI. fourth indent
In addition to the coherent set of actions detailed under point V, as part of the ongoing reflection on the reform of the regime on information and promotion of agricultural products, the Commission will consider appropriate ways to further enhance the promotion of quality schemes. This issue will be addressed, inter alia, by a Green Paper published on 14 July 2011[6].

[6] Green Paper on promotion measures and information provision for agricultural products (COM(2011) 436 final of 14 July 2011).

REPLY OF THE COMMISSION

INTRODUCTION

10.
The primary aim of the scheme is to register names and through this create and protect intellectual property rights.

See also reply to point II.

OBSERVATIONS

17.
The primary mechanism by which to ensure protection of the registered names is through the integrity of the registration process and the legal protection provided for each name registered.

18.
Food law controls are carried out in a harmonised framework of general rules as laid down in the OFFC Regulation (EC) No 882/2004, including risk-based control analysis; structure of the competent authority; planning, nature and reporting about controls, etc.

Article 10(1) of Regulation (EC) No 510/2006 stipulates that the competent authorities responsible for controls shall be designated by Member States 'in conformity with' Regulation (EC) No 882/2004. The specific modalities regarding these controls should be left to Member States pursuant to the principle of subsidiarity. This is without prejudice to any clarification or precisions that might be further contemplated in the overall legislative framework.

REPLY OF THE COMMISSION

19.
In line with the concept of better regulation, Regulation (EC) No 882/2004 covers all issues falling in the field of consumer protection, including food labelling and consumer information issues. Therefore, checks concerning product specifications are covered.

The reference to Regulation (EC) No 882/2004 implies a reference to all the linked legal acts, and in particular to the two Commission Decisions 2006/677/EC[7] and 2007/363/EC[8], which provide more details on the framework of official controls.

20.
The general structure and principles of food law control are duly harmonised. The OFFC Regulation (EC) No 882/2004 requires Member States to carry out official controls regularly on a risk basis and with appropriate frequency taking account, inter alia, of past history of compliance and the reliability of operators' own controls.

The OFFC Regulation is a control instrument that is fitted to the particular circumstances of the food control, in line with the subsidiarity principle and better regulation.

See also the reply to point 19.

[7] Commission Decision 2006/667/EC of 29 September 2006 setting out the guidelines laying down criteria for the conduct of audits under Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls to verify compliance with feed and food law, animal health and animal welfare rules (notified under document number C(2006) 4026).

[8] Commission Decision 2007/363/EC of 21 May 2007 on guidelines to assist Member States in preparing the single integrated multi-annual national control plan provided for in Regulation (EC) No 882/2004 of the European Parliament and of the Council (notified under document number C(2007) 2099).

Differences in the approach are inherent in the decentralisation of controls under the OFFC, and the legislator's choice. Nevertheless, the Court's observations can serve as a basis for an exchange of experiences and appropriate follow-up, without putting into question the Member States' capacity to apply risk-based controls under their separate responsibility[9].

21.
Regulation (EC) No 882/2004 requires Member States to put in place the check system which best fits their needs, based on a risk analysis. Variations between Member States as regards the quantity and intensity of the checks on geographical indications are explained, among other things, by the different impact and uptake of the geographical indications schemes in each Member State.

The reference within recital 6 of Regulation (EC) No 510/2006 to fair competition and enhancement of credibility merely aims at justifying the creation of a harmonised legislative framework defining PDOs/PGIs, in order to put an end to divergent national practices, and is not meant to address any control issues, referred to in recital 16 thereof.

[9] In this sense, the initiative Better Training for Safer Food (BTSF), which aims at organising an EU training strategy in the areas of food law, feed law, animal health and animal welfare rules, as well as plant health rules, included in its programme for 2011–12 several topics for discussion amongst Member States' representatives:

— verification of compliance with specifications;
— verification of compliance vs. official controls: various similar techniques and methods of detecting fraudulent practices and differences between the official controls and verification of compliance conducted for designated quality products;
— case studies based on practical examples of how verification of compliance with specifications should be conducted (traceability, geographical origin and boundaries, specific climatic and geographical characteristics, etc.); risk-based approach and issues of verification of compliance for protected designation schemes.

REPLY OF THE COMMISSION

22.
Controls in both geographical indications and organic farming are carried out in a harmonised framework of general rules as laid down in the OFFC Regulation (EC) No 882/2004.

The two schemes have however a different purpose, reflected in their legal bases. Regulation (EC) No 834/2007[10] on organic products describes the requirements for processes and production methods compulsory for all organic producers in a very detailed and complete manner, while Regulation (EC) No 510/2006 describes mainly procedural steps and prescriptions. As checks are made on the basis of these specifications, the control system in the case of organic farming can be based on a single model, while this is not feasible in the case of geographical indications, where protected products show a wide variety of specifications.

The wine sector is traditionally a highly regulated sector, from the use of permitted oenological practices to the rules on use of vine varieties and planting conditions. Article 62 of Regulation (EC) No 882/2004 in fact excludes the common market organisation (CMO) obligations from the scope of OFFC controls. This has made it more necessary to apply a specific dedicated system of controls.

[10] Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91.

Box 1
The Commission notes that, in the cases referred to by the Court, no violation of Regulations (EC) No 510/2006 and (EC) No 882/2004 was found. Besides, concerning traceability, Article 18 of Regulation (EC) No 178/2002 (the General Food Law), which lays down requirements for traceability of food and of food-producing animals and other ingredients expected or intended to be incorporated into food, is in any case applicable in respect of PDOs/PGIs. Under this provision, food business operators are required to have systems in place to identify the source and quantity of a food or food ingredient and the businesses to which they supply their products.

In addition, specific provisions regarding traceability/proof of origin are laid down in the respective specifications of the PDOs/PGIs, enshrined at EU level. The nature and scope of such provisions are bound to vary depending on the characteristics and specificities of each PDO/PGI. The control bodies are bound to monitor these precise provisions.

Joint reply to points 23–24
Regulation (EC) No 882/2004 provides already for a protection which is equivalent to the *ex officio* protection requested by the European Parliament. For the sake of clarity, in the Commission proposal for a regulation of the European Parliament and of the Council (COM(2010) 733 of 10 December 2010) on agricultural product quality schemes some elements have been added in order to reinforce such controls. In Article 13(3) of the Commission proposal Member States are required to take the appropriate administrative and judicial steps to prevent or stop the unlawful use of protected designations of origin or protected geographical indications.

In line with the principle of subsidiarity, Member States are better placed to decide on the use of resources, based on risk assessment and on the specificities of the national market.

25.
Regulation (EC) No 882/2004 includes clear provisions on mutual assistance (Articles 35 and 42) which apply also to the GI checks.

According to the legislation if non-compliance with food law is discovered, Member States need to take action. There must be an alert system in place, and a contact point in case of non-compliance. In addition, Member States are not currently using the tools put at their disposal by Regulation (EC) No 882/2004 to their full potential, including the provisions on mutual assistance. Accordingly, action should be taken to support a better use of existing tools.

26.
Controls based on denunciation are part of the application of risk analysis. If the risk analysis points to the use of resource-efficient controls such as denunciation based, it would be contrary to the principles of the OFFC to divert control resources away from hygiene and safety controls to non-safety consumer information.

In May 2011[11] the Commission reminded national authorities that every Member State is a market place not only for its own protected PDO/PGI products, but also for products coming from other countries, and that the correct use of these names in the market place also needs to be ensured. This was also previously done by the Agriculture and Rural Development DG in various meetings to discuss the multiannual national control plans (MANCPs) and annual reports (ARs).

[11] In the case of PDO/PGI this was done at the 89th committee meeting of 26 May 2011.

REPLY OF THE COMMISSION

27.
The examples of disallowed practices in the four Member States referred to in Box 2 show that the control mechanisms are working, and highlight the utility of combining all types of food law controls in one coherent system.

28.
See the reply to points 29 and 30 and 31–32.

29.
According to Regulation (EC) No 882/2004 and in line with the subsidiarity principle, Member States are better placed to decide the use of resources based on risk-assessment and specificities of the national market. The Commission is obliged to carry out audits to verify the implementation of multiannual national control plans, and of official controls in the Member States[12].

The Commission, under Regulation (EC) No 882/2004, is required to carry out general and specific audits to verify that national authorities control, ensure and enforce the correct application of feed and food law. The responsibility for this verification under the OFFC, including the geographical indications (GI) scheme, is clear. The audits are planned and executed by the Food and Veterinary Office (FVO — the Health and Consumers DG) in full cooperation with the Agriculture and Rural Development DG.

30.
On-the-spot audits are not the only tools to monitor the implementation of legislation. Other tools, including infringements procedures, bilateral meetings with individual Member States, exchanges in committees, are employed by the Commission.

[12] Areas determined on a risk basis can be subject to on-the-spot controls, and for the remainder supervision is by way of scrutiny of MANCPs and annual reports.

REPLY OF THE COMMISSION

Joint reply to points 31–32
The plans and reports reviewed in 2009 by the Court were the Member States' first response to the planning and reporting requirements of Regulation (EC) No 882/2004. In the meantime the Commission has been working with the Member States to improve the amount and quality of the information in these reports across all sectors; these efforts include the provision of information in relation to PDO/PGI controls.

At the beginning of 2010, the Agriculture and Rural Development DG assessed the MANCPs and ARs of 10 Member States (where a general audit by the FVO was scheduled for the year 2010) with regard to the provisions on PDOs/PGIs and provided the FVO with comments on these documents.

The Agriculture and Rural Development DG and the Health and Consumers DG services are working together to develop a template for a harmonised examination of MANCPs and ARs.

See the reply to point 26 (last paragraph).

33.
The main element for the attractiveness of the scheme towards producers is the fact that names that are registered as PDO/PGI enjoy protection as an intellectual property right.

In addition, its attractiveness is proven by other elements such as the fact that the Agriculture and Rural Development DG continues to receive many new applications or that many products bearing a registered name can claim a price premium compared to non-registered products from the same sector.

37.
The Commission is frequently confronted with serious deficiencies or inadequacies in the applications received. The Commission has systematically offered the possibility to the applicant to complete/clarify/amend its initial application. Such flexibility and enhanced cooperation with the applicants largely explain the average length referred to by the Court.

The Commission is confident that two guides released in 2010 and referred to by the Court will lead to improving the quality of applications.

In addition, in order to reach this goal, it has been explained to Member States during several committee meetings on PGIs and PDOs that this flexibility needs to be limited in order to ensure a more timely management of requests for registration, within strict respect of current rules.

38.
The rural development programming is, above all, based on the national/regional needs which are translated into the respective strategy. It is logical that not all Member States have programmed measure 132. While PDOs/PGIs are important to some Member States, they may be of less importance to some other Member States which would rather use the finite funds elsewhere. See also the reply to point 46.

39.
The survey was conducted at a time when the use of the logo, or any identification of the EU PDO or PGI status on the product, was optional, contrary to the situation as from 1 May 2009, when their use became compulsory. Many of the most famous names, having developed their own marketing identities did not use the 'PDO' or 'PGI' identity or logo.

REPLY OF THE COMMISSION

The primary objective of the scheme is to register and protect the names. The provision of marketing tools and other economic benefits are secondary to this primary aim.

As part of the ongoing reflexion on the reform of the regime on information and promotion of agricultural products, the Commission will consider appropriate ways to further enhance the promotion of quality schemes. This issue will be addressed, *inter alia*, by a Green Paper published on 14 July 2011.

42.
See the reply to point 55.

43.
As measure 133 is not limited to GI schemes, it is clear that the focus cannot be the GI scheme itself. Where the promotion concerns for example a regional quality scheme dealing with only one product, it is normal that the emphasis will be on that product. In general, promotion of a food quality scheme cannot be separated from the products covered, otherwise the consumer cannot relate to the scheme.

44.
The implementation of the measure can be followed up by the output indicator which measures the number of supported information and promotion actions. The importance of the measure is further assessed by the result indicator measuring the value of agricultural production under recognised quality labels/standards. Therefore, the impact cannot only be derived from the uptake of the measure.

46.
Measure 133 not only applies to GI schemes, but also quality schemes recognised by the Member States. Moreover, even if a Member State has no product registered as a PDO/PGI, it has the choice to include measures 132 and 133 into its rural development programme (RDP) in anticipation of quality product registration.

47.
The cumulative expenditure at the end of 2010 shows an increase of 131% (or 9,18 million euro) compared to the cumulative expenditure at the end of 2009.

49.
Sectoral and geographical evaluations of the promotion measures have already been elaborated by external consultants. The conclusions of the two evaluations dealing respectively with specific areas covering third countries' programmes and particular products' sectors in the internal market were positive and their recommendations for further improvements have been taken into account. Evaluation methods as well as impact assessments at each programme's level have been made mandatory since 2008 and regulatory dispositions have been reinforced in accordance with the Court of Auditors' recommendations in its Special Report No 10/2009. Programmes adopted since 2008 do include data which will be taken into account within the ongoing external evaluation of Council Regulation (EC) No 3/2008. This evaluation is expected to be available by October 2011.

REPLY OF THE COMMISSION

52.
The Commission would underline that:

— small producer groups can also benefit from the rural development promotion measure 133;

— in the past, programmes not representing large market volume were accepted with respect to the regulatory conditions.

Box 3
Taking into account both the populations involved and the limited budgetary resources devoted to the information and promotion regime, the programmes co-financed in the USA and Canada target opinion multipliers and leaders instead of public opinion.

55.
Within the framework of Regulation (EC) No 814/2000, calls for proposals to support information measures in agriculture are launched every year. The EU food quality policy has been one of the priority actions in the last three years. However, it is for Member States to put forward schemes — the Commission cannot oblige them to do so.

Although modest in budget, different types of information measures are foreseen, such as information campaigns, radio and/or television programmes, documentaries, discussion programmes, measures targeting universities and schools, media events, etc.[13]

[13] See e.g. 2010/C 231/05 (OJ C 231, 27.8.2010, p. 8).

Also, the Agriculture and Rural Development DG participates on a regular basis in agricultural fairs, conferences[14], seminars, round tables, etc. in Member States and third countries to make the GI scheme better known among potential participants.

GI schemes have had an important place in high-level missions organised by the Agriculture and Rural Development DG[15]. The Quality website attracts more than 50 000 page views by more than 10 000 unique visitors per month.

[14] Quality was one of the main topics of the Salone del Gusto in Turin in 2010, which the Agriculture and Rural Development DG took part in. The GI schemes were also a topic on several conferences, such as the one on 'Food quality certification schemes: adding value to farm produce' organised by the Commission on 5 and 6 February 2007, or the 2-day high-level conference in Prague in 2009. In 2010 the Agriculture and Rural Development DG also published a newsletter on quality logos.

[15] For instance, a high-level mission exclusively devoted to the GI schemes was held from 21 to 25 March 2011 in China, with the participation of the Commissioner for Agriculture and Rural Development.

REPLY OF THE COMMISSION

CONCLUSIONS AND RECOMMENDATIONS

57.
Regulation (EC) No 882/2004 provides for the appropriate legal framework for all food law obligations.

However without putting into question the application of Regulation (EC) No 882/2004, the Commission proposal for a regulation of the European Parliament and of the Council (COM(2010) 733 of 10 December 2010) on agricultural product quality schemes provides further details on the control system covering GIs.

58.
Food law controls, including Article 11 checks are carried out in a harmonised framework of general rules as laid down in the OFFC Regulation (EC) No 882/2004. This regulation covers all issues falling in the field of consumer protection, including food labelling and consumer information issues. Therefore, checks concerning product specifications are covered. The specific modalities should be left to the Member States. Considering the extreme diversity of concrete situations that may arise, further harmonisation is deemed inappropriate.

Regulation (EC) No 882/2004 requires Member States to carry out official controls regularly on a risk basis with appropriate frequency taking account, inter alia, of past history of compliance and the reliability of operators' own controls.

Recommendation 1
The current regulatory system based on Regulation (EC) No 882/2004 provides for the necessary level of detail as regards the requirements of the GI checks. Under the OFFC Regulation, the specific modalities regarding these controls are left to Member States pursuant to the principle of subsidiarity. This is without prejudice to any clarification or precisions that might be further contemplated in the overall legislative framework.

The Commission will however further discuss with Member States the coverage of checks, their frequency and the methodology for their selection in executing their responsibilities under the Official Food and Feed Control (OFFC) Regulation.

59.
The obligation for Member States to perform checks aiming at detection and suppression of disallowed practices is provided in the framework of Regulation (EC) No 882/2004. Member States are requested to do so in a way that best suits their needs, based on a risk analysis.

Recommendation 2
Regulation (EC) 882/2004 sets out clear principles for checks aiming at the detection and suppression of disallowed practices, which are established by Member States on the basis of a risk analysis.

However without putting into question the application of this regulation, the Commission proposal for a regulation of the European Parliament and of the Council (COM(2010) 733 of 10 December 2010) on agricultural product quality schemes provides additional details on the control system covering GIs.

REPLY OF THE COMMISSION

At the same time, within the frame of the OFFC architecture, these issues will be further reflected upon.

With regard to mutual assistance provisions, they are already applicable in accordance with the provisions of Title IV (Administrative assistance and cooperation in the areas of feed and food), Articles 34 to 40 of Regulation (EC) No 882/2004.

60.
Audits and need for audit planning follow well-established criteria and are based on risk analysis and largely focused on hygiene and safety. Commission resources are very tight and choices have to be made in consideration of all food law undertakings.

See also the reply to Recommendation 3.

Recommendation 3
As from 2011, the Agriculture and Rural Development DG and the Health and Consumers DG have agreed that the latter will include PDO/PGI-related issues in its annual audit programmes in full cooperation with the Agriculture and Rural Development DG and following the same rigorous prioritisation process applied to other areas under its remit.

In addition, specific working arrangements are currently being detailed, including information on multiannual national control plans (MANCPs) and annual reports (ARs).

61.
The scheme is primarily an intellectual property protection scheme. The appropriate instruments, legal means are there and producers are invited to join the scheme on a voluntary basis.

Producers have shown a clear interest in the scheme, as shown by the significant number of product names registered (above 1 000), accounting for a market value of 14,5 billion euro (in 2008).

The Member States that have joined the EU since 2004 are still picking up on speed in relation to the scheme. Therefore, trade fairs, thematic international exhibitions and/or preparation of guides for applicants for geographical indications (PDO or PGI) are important tools for attracting potential applicants.

62.
Raising awareness among consumers takes considerable time especially since the use of the logos has only been mandatory since 1 May 2009. Also, as explained under point V, the Commission believes having put into place a coherent set of actions to increase consumer awareness. A change of attitude will take time and the Commission also agrees that there is more potential and will reflect, also within the ongoing reform of its promotion policy, on how to increase further consumer awareness. The EU food quality policy has been one of the priority actions in the last three years for the information measures on agricultural products.

It shall be noted that only Member States have the option to propose promotion schemes for geographical indications.

However, the Commission is promoting or participating in different types of information measures targeting geographical indications. See the reply to point 55 for a non-exhaustive list of these activities.

See also the reply to Recommendation 4.

Recommendation 4
As part of the ongoing reflexion on the reform of the regime on information and promotion of agricultural products, the Commission will consider appropriate ways to further enhance the promotion of quality schemes.

European Court of Auditors

Special Report No 11/2011
Do the design and management of the geographical indications scheme allow it to be effective?

Luxembourg: Publications Office of the European Union

2011 — 44 pp. — 21 × 29.7 cm

ISBN 978-92-9237-267-5
doi:10.2865/75364

How to obtain EU publications

Free publications:

- via EU Bookshop (http://bookshop.europa.eu);
- at the European Union's representations or delegations. You can obtain their contact details on the Internet (http://ec.europa.eu) or by sending a fax to +352 2929-42758.

Priced publications:

- via EU Bookshop (http://bookshop.europa.eu).

Priced subscriptions (e.g. annual series of the *Official Journal of the European Union* and reports of cases before the Court of Justice of the European Union):

- via one of the sales agents of the Publications Office of the European Union (http://publications.europa.eu/others/agents/index_en.htm).

QJ-AB-11-008-EN-C

THE EUROPEAN GEOGRAPHICAL INDICATIONS SCHEME AIMS TO PROTECT THE NAMES OF PRODUCTS WHOSE CHARACTERISTICS ARE ASSOCIATED WITH THE GEOGRAPHICAL AREA IN WHICH THEY ARE PRODUCED, AND PROVIDES A POTENTIAL ECONOMIC OPPORTUNITY FOR FARMERS AND FOOD PRODUCERS. THIS REPORT EXAMINES WHETHER THE SCHEME'S CONTROL SYSTEM IS ROBUST, AND WHETHER THE SCHEME IS ATTRACTIVE TO PRODUCERS AND KNOWN TO CONSUMERS. THE AUDIT CONCLUDES THAT CLARIFICATION IS NEEDED ON A NUMBER OF ISSUES CONCERNING THE SCHEME'S CONTROL SYSTEM, ESPECIALLY CHECKS OF PRODUCT SPECIFICATIONS AND DISALLOWED PRACTICES, AND THAT A CLEAR STRATEGY IS LACKING TO RAISE THE AWARENESS OF BOTH PRODUCERS AND CONSUMERS.

EUROPEAN COURT OF AUDITORS

Publications Office

ISBN 978-92-9237-267-5

9 789292 372675