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GREEN PAPER

**on agricultural product quality:
product standards, farming requirements and quality schemes**

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In this consultation exercise, the Commission is seeking the views of all organisations and citizens interested in the quality of agricultural products.

Responses are encouraged from farmers and producers of food, non-governmental organisations, processors, retailers, distributors, traders, consumers, and public bodies.

Respondents are welcome to reply to part or all of the Green Paper. Responses should be sent by Wednesday, 31 December 2008 to:

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or to:

Green Paper 'Quality'
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http://www.ec.europa.eu/geninfo/legal_notices_en.htm

Further information can be found on the Green Paper website:

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

¹ Personal data will be treated by the Commission in compliance with Regulation (EC) No 45/2001 of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

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INTRODUCTION

As globalisation spreads, products from emerging countries with low production costs are putting greater pressure on EU farmers. There is growing competition for both agricultural commodities and value-added products. Faced with these new commercial challenges, the EU farmers' most potent weapon is 'quality'. The EU has an advantage on quality given the very high level of safety ensured across the food chain by EU legislation in which farmers, and producers more globally, have invested. However, there are more aspects which can reinforce quality in the more global sense of the term.

Quality is about meeting consumer expectations. The agricultural product qualities addressed in this Green Paper are the product characteristics, such as farming methods used place of farming, etc., that a farmer wants to be better known and a consumer wants to know. Quality is an issue for every farmer and every buyer, whether they are dealing with commodities produced to baseline standards or with the high-end quality products in which Europe excels. This Green Paper is without prejudice to issues of quality linked to food safety which are already covered by other Commission actions such as nutritional labelling, animal welfare, etc.

Market and societal demands

In times of high commodity prices, the incentive to increase the volume of production should not be used as an excuse to lower standards. Consumers want food to be affordable and good value for money. But consumers and traders have many other demands on the value and quality of the products they buy, apart from price. Meeting these demands is a big challenge for farmers.

The demands of the market are diverse and multiplying. The most significant issues in the EU are hygiene and food safety (a 'non-negotiable must'), health and nutritional value, and societal demands. Moreover, consumers increasingly pay attention to the contribution made by farming on sustainability, climate change, food security and development, biodiversity, animal welfare, and water scarcity. As the pre-eminent user of land, farming is a key factor in the territorial development of regions, landscapes and valuable environmental areas. Last but not least, consumers with growing disposable income – in many parts of the world – are demanding taste, tradition and authenticity in their food as well as the application of higher animal welfare standards.

Instead of seeing these demands as a burden, EU farmers have a real opportunity to turn them to their advantage – by delivering exactly what consumers want, clearly distinguishing their products in the marketplace, and gaining premiums in return.

The EU's agricultural policy must support farmers' efforts to win the quality challenge. EU schemes and regulations are already trying to do this, essentially in two ways: baseline measures and quality measures.

Baseline measures

EU regulations lay down some of the most stringent baseline production requirements in the world covering safety and hygiene, product identity and composition, environmental care, and plant and animal health and animal welfare, thus reflecting the clearly stated democratic wish of EU consumers and citizens.

Quality measures and schemes at EU level

Many EU farmers are constantly on the lookout for fresh and unique ways to create new market outlets and increase their profits. These include:

- producing 'premium' products which offer the consumer something over and above baseline requirements –whether in the form of special characteristics, such as taste, origin, etc., or in the method of production;
- giving consumers confidence in EU quality schemes and in the claims that producers make for their "premium products";
- helping consumers in choosing, and/or deciding whether to pay more for a particular product;
- protecting the names of food products, wines and spirit drinks that depend on their place of production and the *savoir-faire* of local producers for their special characteristics or reputation by means of **geographical indications**, such as 'Chablis', 'Prosciutto di Parma', 'Scotch whisky', 'Café de Colombia', 'Sitia Lasithiou Kritis', 'Szegedi szalámi', 'Queso Manchego', and 'Nürnberger Lebkuchen';
- regulating the organic sector by laying down strict requirements, as more and more consumers are attracted to the production methods used in **organic farming** and look specifically for foods with an organic label;
- registering the names of **traditional** products under an EU scheme designed to promote traditional foods and drinks;
- promoting products specific to the EU's **outermost regions**;
- setting EU **marketing standards** in many sectors to define specific product qualities, (such as 'extra-virgin' for olive oil, 'Class I' for fruit and vegetables and 'free-range' for eggs);
- encouraging **certification schemes** set up by public and private bodies to better inform consumers across the EU about farming methods and product characteristics.

Green Paper

Against this background the Commission has decided to launch a reflection on how to ensure the most suitable policy and regulatory framework to protect and promote quality of agricultural products, without creating additional costs or burdens. As a first step it intends to launch a wide consultation on whether the existing instruments are adequate, or how they could be improved and what new initiatives could be launched.

Part I looks at baseline farming requirements and EU-backed product marketing standards, including those laying down specific product qualities;

Part II looks at existing quality schemes covering geographical indications, ‘traditional specialities guaranteed (TSG)’, products of outermost regions, and the operation of the single market in products of organic farming;

Part III looks at certification schemes, mainly in the private sector, that help producers tell buyers and consumers about their product.

PART I: PRODUCTION REQUIREMENTS AND MARKETING STANDARDS

1. EU FARMING REQUIREMENTS

Farmers in the EU adhere to a range of farming requirements and all EU-produced food has been farmed in line with these rules. They are aimed not only at ensuring that hygiene and safety standards are met for the final foodstuffs placed on the market, but also include societal concerns (such as environmental, ethical, social...).

For farmers, this means taking due care in selecting and applying pesticides and fertilisers, respecting hygiene rules, preventing animal and plant diseases, ensuring farm workers are trained and adequately protected, providing proper welfare conditions for farm animals, and protecting the environment.

For consumers, this means being confident that acceptable production requirements, including the legitimate societal concerns mentioned above, have been followed for all EU-farmed products.

These farming requirements are continually evolving as a function of the demands of society. They should be an important part of the quality of food offered for sale and an asset that farmers can promote. Yet there is an apparent lack of success in telling consumers that these farming requirements exist and have been followed in the production of food.

However, many of these farming requirements — those not referring to product hygiene and safety — such as environmental and animal welfare rules do not necessarily apply in respect of imported foodstuffs. Why this discrepancy? Farming standards, protection of the environment, animal welfare, and worker safety are matters regulated by the governments of the countries where the farming takes place. So, while the EU can and does insist that imported foods meet minimum product standards, especially concerning hygiene and safety, the checking of the farming methods used in the production of imported agricultural products and foods is a matter for the legislation in the country of production.

A better connection needs to be made between the farming requirements beyond product hygiene and safety matters followed by all EU farmers and the product that results. If these farming requirements were more widely known and recognised by consumers, they could become a potential marketing advantage.

However, these concerns have to be met without creating barriers to the functioning of the single market or distortions of competition.

Question 1:

How could the requirements and standards met by farmers that go beyond product hygiene and safety be made better known?

What would be the advantages and disadvantages of

- developing new EU schemes with one or several symbols or logos indicating compliance with EU farming requirements, other than those related to hygiene and safety? Should a non-EU product which complies with EU production requirements be also eligible to use such an EU quality scheme?
- having an obligatory indication of the place of production of primary products (EU/non EU)?

2. MARKETING STANDARDS

EU marketing standards are regulations that lay down definitions of products, minimum product standards, product categories, and labelling requirements to inform consumers for a significant number of agricultural products and some processed foods². They should operate to help farmers deliver the qualities of product that consumers expect, avoid consumer disappointment, and facilitate price comparisons for different qualities of product. Marketing standards have been adopted to replace various national standards, and thus facilitate trade in the single market.

Not all foods are subject to EU-level marketing standards. For example, in the arable crops sector (wheat, maize, legumes, etc.) commodities are traded according to official international, national or privately established grading and classification standards. For products sold to consumers that are not covered by EU marketing standards, general consumer protection and labelling rules apply with the aim of ensuring consumers are not misled.

While some EU marketing standards have been straightforward to develop, others have proved controversial. The process of revising marketing standards by means of EU regulation can also be cumbersome.

In this Green Paper, the Commission is consulting on three general issues relating to marketing standards: how the obligatory parts of EU marketing standards should be developed; whether the use of optional terms (also called ‘reserved’ terms) could be expanded; and what the options are for simplifying the rulemaking process itself.

2.1. Obligatory elements of marketing standards

Product identities: Most EU marketing standards define the agricultural products or foodstuffs they cover in a way that sets out clear, common rules for the product description.

² Products covered by marketing standards: beef and veal, eggs, fresh and processed fruit and vegetables, honey, hops, milk and milk products, olive oil, pig meat, poultry, sheep meat, sugar, wine, cocoa and chocolate products, coffee extracts and chicory extracts, fruit juice, fruit jams, jellies and marmalades, etc., spirit drinks, and butter, margarine and blends.

For example, the term ‘juice’ may not be used if the fruit juice has been diluted. Similarly, the term ‘milk’ cannot be used to refer to soya drinks.

Farming requirements: In some cases, such as for fresh fruit and vegetables or poultry meat, marketing standards also set absolute stringent requirements for ‘sound, fair and marketable’ quality, which is a precondition for sale to consumers. Fresh fruit and vegetables may not be sold to consumers if they have gone off or are rotten, blemished, dirty, damaged by pests, underdeveloped or, in the case of fruit, unripe. These requirements also include minimum size requirements (indicating maturity). This can lead to fruit and vegetables that are edible (i.e. safe to eat) being excluded from the fresh produce market and either used for processing or destroyed.

Quality and size classifications: Several marketing standards include compulsory classification schemes. Originally these were introduced for reasons of market transparency, to allow buyers to compare the prices of known product classes or categories. Poultry carcasses and cuts must be classified in Class A or Class B depending on quality criteria, such as the technical description of the shape and form of the carcass and any damage to the carcass. Eggs must be sized in one of four size classes — ‘XL’, ‘L’, ‘M’ and ‘S’ — and classified according to the farming method: ‘cage’, ‘barn’, ‘free-range’ or ‘organic’. Similarly, some fruit and vegetables must be graded as ‘Extra’, ‘Class I’ or ‘Class II’. This means that all such fruit must be graded before it can be put on sale.

For the compulsory aspects of marketing standards, the main issues are whether the rule is necessary to meet legitimate policy objectives, whether the costs in terms of red-tape are proportionate, and whether its application has unwanted consequences — such as inhibiting the marketing of innovative or uncommon products, or the destruction of comestible produce.

Question 2:

How does laying down product identities in marketing standards in EU legislation affect consumers, traders and producers? What are the benefits and drawbacks?

Should the retail sale of products that do meet hygiene and safety requirements, but do not meet the marketing standard for aesthetic or similar reasons, be allowed? If so, should such products require specific information for the consumer?

Could compulsory quality and size classifications be made optional as ‘optional reserved terms’ (as set out in the section 2.2 below)?

2.2. Reserved terms within marketing standards

Optional reserved terms are defined by law. They tell buyers that the product on which the reserved term is used corresponds to a defined farming method or product characteristic. Reserved terms in marketing standards are intended to provide the consumer with useful, accurate, technical information. Reserved terms should help farmers too by identifying value-added characteristics or farming methods and thus secure an additional financial return for additional production costs.

Optional reserved terms are also used to identify categories or qualities of product. However, the product may be sold without using any of these optional terms, for example:

- according to the marketing standards for poultry meat, the use of the optional terms ‘fed with ...’, ‘extensive indoor’, ‘free-range’, or ‘traditional free-range’, are restricted to product which has been farmed using defined methods;
- the term ‘cold extraction’ can only be used on virgin and extra-virgin olive oils that have been subject to the defined process – but the term does not have to be used.

Reserved terms used optionally offer the potential to provide fixed definitions where necessary, enabling farmers to communicate specific product attributes and farming methods.

On the other hand, farmers and first-stage producers of food in different agricultural sectors wanting to communicate the use of particular farming methods to consumers frequently use words like ‘farmhouse’, ‘mountain’, ‘low carbon’, ‘natural’, etc. These descriptive terms can be used as long as they meet any national definition applicable as well as the general standard of not misleading consumers. These words and the farming practices behind them lend appeal to products. Therefore consumers may be misled if for instance words implying the use of extensive farming methods are used on the product of more intensive agriculture. The recent emergence of diverse labels claiming use of farming methods that have reduced impact on climate change has led to a certain amount of confusion. There may, therefore, be a need to define such farming terms at EU level in particular sectors.

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 reserved terms describing farming methods in particular sectors, such as ‘mountain product’, ‘farmhouse’ and ‘low carbon’, be laid down by the EU?

2.3. Simplifying marketing standards

In order to develop EU marketing standards in general, we need to look at ways of simplifying rule-making, either within the Commission, or by transferring the task to other bodies, or by referring to international standards.

Simplification should also take into account the administrative burdens on public authorities and on stakeholders. For example, the obligatory grading (e.g. sizing) of fruit and vegetables imposes costs on producers and requires public authorities to control compliance.

Many EU marketing standards are based on those agreed internationally in the *Codex Alimentarius* or the *United Nations Economic Commission for Europe* (UN/ECE). Where they are relevant, these international standards are used as the basis for EU marketing standards. In the case of arable crops, for which no EU marketing standards have been adopted, international standards are referred to in national standards or used directly by private traders, in contrast to the mandatory EU standards which are applied for some fruit and vegetables. The EU also contributes to the setting of international standards and EU standards are sometimes used as a basis for international standards.

As market demands change and technology advances, marketing standards can become partly out of date, and need adjustment and updating. Broadly speaking, there are two ways of keeping pace.

Self regulation

The operators in the sector concerned can be entrusted to lay down and monitor marketing standards, including product identities, product classifications and reserved terms. Where international standards exist, these can simply be used by producers and traders in commercial transactions.

Traders and business people in a particular sector can take the initiative themselves to develop reference standards or codes of practice. This process is known as self-regulation. Administrative costs for public enforcement are low, as any disputes are resolved between the parties concerned, e.g. by arbitration. In contrast, standards enforced by public authorities entail costs of inspections and controls, backed up by court proceedings where necessary.

Self-regulation has the advantage that policy is made, implemented and enforced by practitioners close to what is actually happening in the market. The procedures for drafting standards can be simpler and allow more flexibility and faster adjustment in a dynamic market environment. At the same time, the technical regulations are only applicable to those businesses that have undertaken to respecting them (also referred to as "inter pares" arrangements, or arrangements between signatory parties).

Examples of self regulation may be found in the potato trade and fruit juice sector.

Simplified EU regulation

Another way to keep marketing standards up to date is to simplify the EU approval and revision of marketing standards, by means of co-regulation, direct reference to international standards and applying voluntary schemes where applicable.

- Co-regulation is the process whereby a Community legislative act entrusts the attainment of clearly defined objectives to stakeholders, who are recognised in the field. For marketing standards, the legislator would concentrate on the essential aspects of the legal act, whereas representatives of the parties concerned would be asked to complete the legislation and lay down the technical data and specifications on the basis of their experience.
- EU laws could simply make reference to internationally agreed standards. This would avoid the process of EU rulemaking for marketing standards. However, international standards are normally adopted in only a few languages, and certainly only a minority of official EU languages.
- Lastly, the substance of existing rules could be simplified and streamlined, for example by means of a critical review (see the discussion above on the different aspects of marketing standards, in particular 'reserved terms') and the drafting of a new, harmonised framework for marketing standards, as has now been initiated in the fruit and vegetables sector.

Question 4:

To what extent could the drafting, implementation and control of marketing standards (or parts of them) be left to self-regulation?

If marketing standards (or parts of them) remain governed by EU law, what would be the advantages and disadvantages, including in respect of the administrative burden, of:

- using co-regulation?
- referring to international standards?
- keeping the current legislative approach (while simplifying the substance as much as possible)?

PART II: SPECIFIC EU QUALITY SCHEMES

Four specific EU quality schemes have been introduced to develop geographical indications, organic farming, traditional specialities, and product from outermost regions of the EU. These schemes identify to consumers products having specific qualities resulting from a particular origin and/or farming method. In order that consumers can be confident that the label claims are justified, compliance with the specification is monitored by public authorities or by a private certifying body. Farmers producing the genuine products are protected against being undercut by imitation products sold under the protected names. They should therefore be able to secure a premium price for their additional care and efforts.

The four schemes are intended to correspond to particular market demands for products having these particular qualities. The purpose of this Green Paper is to examine in depth different aspects of these schemes as well as the potential for any additional EU scheme.

3. GEOGRAPHICAL INDICATIONS

A ‘geographical indication’ is a name describing an agricultural product or foodstuff that owes its characteristics or its reputation to the geographical area from which it originates. Many consumers in the EU, and increasingly throughout the world, looking for quality products will seek out and pay a premium for authentic products from a particular geographical area. For farmers and producers, geographical indications can provide an important source of revenue and security as well as having the satisfaction and pride in producing quality products that form a part of Europe's heritage.

This explains why the EU created registers of geographical indications for agricultural products and foodstuffs, wines and spirits, designed to facilitate intellectual property protection to the names of qualifying products. ‘Geographical indication’ includes both the ‘Protected Designation of Origin’ (PDO) and the ‘Protected Geographical Indications’ (PGI). For a name to qualify as a PDO, all the steps of production³ must in principle take place in the geographical area and the product’s characteristics must be exclusively or essentially due to

³ e.g. sourcing of raw materials; cleaning and grading; processing; maturing; preparation or final product, etc.

its geographical origin. For a name to qualify as PGI at least one step of production has to take place in the area, and the link to the area concerned can be justified by reason of a specific quality, reputation or other characteristic linked to the geographical area.

The EU GI system is of course open to third-country producers.

3.1. Protection and enforcement of geographical indications

Protection

A registered geographical indication provides intellectual property protection, and entitles producers and others trading or selling the original product to use the registered name. The registered name may not be used on similar products, even accompanied by terms such as 'like', 'type', 'kind', or if they evoke the name or use it in translation.

Registration and protection of a geographical indication can lead to conflicts with any existing users (or potential users) of the name, such as holders of trademarks or users of plant variety names and animal breed names that contain a geographical indication. Some users claim that a name is used in a generic sense since a name that is generic cannot be registered as a geographical indication. Legislative rules exist to try to resolve these issues of conflict and the question of generic status has been largely clarified by the European Court of Justice.

In order to allow a better identification of products under a protected GI, the EU has created symbols to be used on products marketed under registered names.

Enforcement

Checks that farmers have adhered to the product specification are undertaken by public authorities or by private certification bodies. In addition, Member States conduct administrative controls on the use of registered names on products in distribution and retail under specific legislation on wines and spirits and as part of the official control of EU food law for other products.

These controls by public authorities on geographical indications distinguish the instrument from trademark protection. Trademarks are a private law instrument. The owner has to defend the trademark, if necessary by taking private legal action.

Question 5:

Is there a need to clarify or adjust any aspects of the rules laying down the rights of geographical indication users and other users (or potential users) of a name?

What criteria should be used to determine that a name is generic?

Are any changes needed in the geographical indications scheme in respect of:

- the extent of protection?
- the enforcement of the protection?
- the agricultural products and foodstuffs covered?

Should the use of alternative instruments, such as trademark protection, be more actively encouraged?

3.2. Criteria for registration of geographical indications

It is essential that registrations meet consumer expectations for quality products in order to maintain confidence in the geographical indications system. In total, about 3 000 geographical indications for wines, spirits and agricultural products and foodstuffs have been registered or are under examination. Many of the applications now submitted are for products which are mainly sold on local or regional markets. For some names for processed foods, the link between the place and the production rests on the processing rather than the farming of the ingredients and on the reputation attached to the product. The raw materials may therefore come from outside the area, and this might not be what the consumer is expecting.

For many products the quality and reputation does not rest exclusively on factors linked to origin and/or the savoir faire of local producers. Sustainability criteria can also make an important contribution to the quality of the product and in meeting consumer expectations, such as:

- contribution of the product to the economy of a local area,
- environmental sustainability of farming methods,
- economic viability of the product and potential for export,
- for processed food products, the requirement that all raw materials must also come from an area surrounding the zone of processing of the product.

Question 6:

Should additional criteria be introduced to restrict applications for geographical indications? In particular, should the criteria for protected geographical indications, as distinct from protected designations of origin, be made stricter to emphasise the link between the product and the geographical area?

Should specific sustainability and other criteria be included as part of the specification, whether or not they are intrinsically linked to origin? What would be the benefits and drawbacks?

3.3. Protection of EU geographical indications in third countries

Some geographical indications have considerable export potential in high-end markets. Where consumers look for quality products, EU exporters can play to their strengths. However, successful geographical indications also make tempting targets for copying and usurpation. In order to encourage EU exporters to market quality products outside the EU and to protect their investment, it is essential to provide legal protection of EU geographical indications.

Some countries outside the EU have specific systems for protecting geographical indications, while others use trademark law, labelling law, or a combination of legal instruments for this purpose.

Geographical indications are protected under various multilateral agreements. The EU has concluded a number of bilateral agreements, particularly in the wine sector. The EU is seeking improved protection and registration at the multilateral (WTO) level and through negotiation of a large number of bilateral agreements for all agricultural products. In bilateral agreements, the approach has been to seek protection for the whole of the EU's list of geographical indications. However, with many of the 3 000 geographical indications now protected in the EU being for products sold mainly at local or regional level, the question arises on the pursuit of international protection of all these names.

Question 7:

What kind of difficulties do users of geographical indications face when trying to ensure protection in countries outside the EU?

What should the EU do to protect geographical indications in the most effective way in third countries?

3.4. Geographical indications as ingredients in processed products

Labels of processed and prepared products often cite significant ingredients. Where an ingredient is covered by a Protected Designation of Origin (PDO) or Protected Geographical Indication (PGI), the producer of the processed product may wish to advertise the presence of this ingredient by using the registered name. However, producers of the ingredient may object to the use of the registered name to market a processed product.

General rules on consumer information include provisions on how such ingredients may be advertised to prevent misleading consumers. For example, if an ingredient is used in the sales designation, the proportion of the ingredient must be stated in the ingredients list.

Question 8:

Have any difficulties arisen from the advertising of PGI/PDO ingredients used in processed products/prepared foods?

3.5. Origin of raw materials in a protected geographical indication

To comply with the PGI definition, only one step of the production process need take place in the area that gives rise to the name. For many PGIs (and some PDOs) of processed products, the raw materials are sourced from outside the area concerned. Some consumers may expect the raw materials to come from the area while others may expect the specialist producers inside the geographical area choose the best quality raw material from whatever origin. Consumer expectations may also differ depending on the type of product.

Question 9:

What are the advantages and disadvantages of identifying the origin of raw materials in cases where they come from somewhere else than the location of the geographical indication?

3.6. Coherence and simplification of geographical indication systems

There are presently three systems of registration and protection of agricultural geographical indications in the EU: one for agricultural products and foodstuffs, one for spirit drinks and one for wine. This is partly the result of specificities of the products concerned and the progressive implementation of a protection system for each type of product.

While the bases for the three systems are similar: type of protection, definitions, administrative enforcement, relationship with trademarks, rules on coexistence with homonymous names, creation of a register, and role of a product specification, there are procedural and other differences based on specific requirements for the product types. For example, both the PDO and PGI instruments are available for wines and agricultural products and foodstuffs, but only PGIs can be registered for spirit drinks.

Question 10:

Should the three EU systems for protection of geographical indications be simplified and harmonised and, if so, to what extent? Alternatively, should they continue to develop as separate registration instruments?

4. TRADITIONAL SPECIALITIES GUARANTEED

'Traditional specialities guaranteed' (TSGs) are the names of agricultural products or foodstuffs that are produced using traditional raw materials or traditional methods of production, or that have traditional composition. The scheme covers agricultural products intended for human consumption and a variety of foodstuffs like beer, confectionery, pasta, pre-cooked meals, soups, ice-creams and sorbets.

Since its introduction in 1992, only 20 TSG names have been registered. Some 30 product names are awaiting registration. Even if all of these were registered, the number is very low. Few of the registered names are significant in economic terms.

In most cases, registration serves only to identify the traditional form of the product: non-traditional products can continue to use the name. More than two thirds of applicants have opted for this kind of registration, *without* reserving the name. As an alternative option, the name can be registered exclusively, in which case, it 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. This shows that most TSG registrations serve only to identify the traditional product, and not to protect the name.

Any producer who allows the requisite checks to be carried out may produce and market the traditional product under the scheme. However, it appears that few operators outside the country from which the initial application was made have taken advantage of this provision in the TSG regulation.

Question 11:

Given the low take-up of the TSG scheme, is there a better way of identifying and promoting traditional speciality products?

5. ORGANIC FARMING

Consumer demand for organically produced foods has seen a steady increase in recent years with the growth in demand exceeding the growth in supply. Farmers and consumers rely on the integrity of the organic system to ensure that the product has been produced in line with the claims. Controls, undertaken by public authorities or by certification bodies, are essential to maintain confidence in the system and to justify the premium prices.

The market for organic food in the EU continues to be fragmented along national lines. National supermarkets tend to stock products certified by national certifiers, notwithstanding the fact that they are all operating under the common EU organic standard. The current challenge for the EU therefore is to create a functioning internal market for organically produced products without losing or diluting the reputation and credibility of the organic label.

Since 1991, the EU has applied a standard laying down organic farming rules for European producers and processors, and for third country exporters wishing to place organic products on the EU market. The EU standard follows closely the organic farming rules set out in an international standard adopted by *Codex Alimentarius*, which facilitates recognition of EU organic product exported to other countries.

Strategic and political objectives for the organic farming sector were agreed in 2004 and set out in the *EU Action Plan for Organic Food and Farming*. The most significant legislative result has been a new organic farming regulation, adopted in June 2007. Given the very recent adoption of this new legislation, the Commission wishes to focus the consultation on how the market in organic products works, rather than on the policy detail of the legislation.

Question 12:

What factors might inhibit the development of a single EU market in organic products? How can the single EU market in organic products be made to work better?

6. QUALITY PRODUCTS POLICY FOR THE OUTERMOST REGIONS

The legislation concerning the specific measures for agriculture in the outermost regions⁴ of the EU provides for the introduction of a graphic symbol designed to ensure greater awareness and consumption of quality agricultural products, whether natural or processed, specific to the outermost regions. The use of the symbol is monitored by bodies appointed by the national authorities and the conditions for using it are developed by trade organisations concerned. The agricultural products for which the symbol may be used must meet requirements defined by reference to EU rules or, in absence of such rules, to international standards.

Where necessary, additional specific requirements may be adopted in respect of products from the outermost regions on a proposal from the representative trade organisations. So far, this possibility has been used by producers in the Spanish and French outermost regions (e.g. for pineapples, bananas, melons and other exotic fruits from Guadeloupe, Martinique and la Réunion and for bananas, tomatoes, cucumbers and other fruits and vegetables as well as flowers and wine produced in the Canary Islands).

These initiatives are intended to motivate farmers to respect quality requirements for their products, and add value to the local production of regions which are handicapped by their remoteness from the EU mainland and insularity, and by difficult geographical and meteorological conditions. In this way, the graphic symbol and associated production requirements should contribute to making the agricultural sector more competitive both on the local and on the external market.

Question 13:

To what extent has use of the graphic symbols for the EU's outermost regions increased awareness of products from the outermost regions?

How should these initiatives be developed in order to increase the volume of quality agricultural products originating from the outermost regions?

7. FURTHER EU SCHEMES

The current EU quality schemes deal with geographical origin, traditional product, product from certain region, and organic farming and represent the cornerstone of EU quality policy. There are a number of candidates for further EU schemes, including product of high-nature value or mountain areas, welfare quality⁵, an EU origin label and extension of the *Ecolabel* scheme to processed agricultural products. Innovation could also be encouraged.

Any new EU-level quality scheme must correspond to policy needs at EU level that cannot be adequately met by a national or private-sector scheme or other instrument. In the framework of the *Health Check* of the common agriculture policy, the challenges of climate change

⁴ The French Overseas Departments of Guyana, Martinique, Guadeloupe and la Réunion, the Spanish Canary Islands and the Portuguese Azores and Madeira.

⁵ <http://www.welfarequality.net/everyone>: Welfare Quality® is a project funded by the European Commission. It is an integrated project in the sixth framework programme. The research programme is designed to develop European standards for on-farm welfare assessment and product information systems as well as practical strategies for improving animal welfare.

impacts, conservation of biodiversity, and water use were highlighted as among the highest priorities.

The Commission would evaluate for possible new schemes if further legislation is necessary or if in some cases, drawing up a set of guidelines might be considered sufficient.

Mandatory schemes might have advantages in particular for legally and scientifically complex backgrounds (e.g. animal welfare). In other cases, voluntary schemes could be sufficient and designed to assist scheme owners in developing and improving schemes.

The administrative burden for farmers and other stakeholders, as well as Member State administrations and the Commission, must be taken into account, in line with principles of better regulation policy.

Question 14:

Are there any pressing issues for which existing schemes and arrangements are inadequate and for which there is a strong case for an EU level scheme?

Should the Commission consider mandatory schemes in certain cases, for example, those with a complex legal and scientific background or those needed to secure high consumer acceptance?

If so, how can the administrative burdens on stakeholders and public authorities be kept as light as possible?

PART III: CERTIFICATION SCHEMES

8. FOOD QUALITY CERTIFICATION SCHEMES

Recent years have seen a substantial growth in private and national food quality certification schemes. For retailers, these provide a means of reacting to changing consumer demand and of delivering to consumers products with specific qualities, whether they be product characteristics or production methods. For consumers, the fact that the schemes rely on certification provides an additional guarantee that the label claim can be relied on. For farmers, they represent both a cost and an opportunity to communicate product qualities to consumers.

Certification schemes in the EU range from compliance with compulsory production standards to additional requirements relating to environmental protection, animal welfare, organoleptic qualities, worker welfare, fair trade, climate change concerns, ethical, religious or cultural considerations, farming methods, and origin.

The food industry and retailers may rely on quality certification for extra assurance about products supplied. This provides legal security that the farmers have followed the correct standards and so underpins the retailer's reputation.

However, the proliferation of schemes and labels in recent years has given rise to concerns about the transparency of schemes' requirements, the credibility of the claims made and their possible effects on equitable commercial relations.

In this consultation, the Commission is seeking views on the operation of these largely private schemes and their impact on farmers both inside and outside the EU, including in developing countries.

8.1. Effectiveness of certification schemes in delivering policy objectives

Large retailers can use certification schemes as a way of ensuring or imposing compliance with certain production and delivery conditions. The rise of schemes over the years has reflected retailers' assessments of consumer demands to know more about the food they buy. The main concerns for many consumers are hygiene and safety, and price. For consumers seeking quality products with particular characteristics or resulting from particular farming methods, some of the main drivers of innovation include:

- a desire for consumers to reconnect with agriculture and give preference to local and seasonal products from farming systems that sustain both nature and society;
- the environmental concerns of combating climate change, managing natural resources such as water and soil more efficiently, and preserving biodiversity;
- promotion of nutritional qualities of foodstuffs;
- societal concerns: the Fair Trade label is an example of a scheme based on the strategic intention to help producers and workers (chiefly in developing countries) move from a position of economic and social vulnerability to one of security and economic self-sufficiency;
- animal welfare: private schemes promoted by animal welfare groups and farmers working with retailers and the scientific community. These animal welfare schemes generally certify that higher than the minimum requirements are met, for marketing purposes.

These policy drivers may explain, at least in part, the emergence of a tremendous variety of certification schemes. However, the creation and use of a certification scheme is in some cases dependent on there being a market demand.

Schemes that ensure compliance with existing legal requirements are referred to as 'baseline schemes'. Instead of 'adding' particular quality requirements, these schemes take regulatory baseline requirements, develop them into detailed rules for operators (requiring additional record-keeping, for example) and apply checks to ensure that these are followed. This type of scheme is then used to advertise production 'certified' or 'assured' as complying with the relevant standard, be it hygiene, etc. Often, such schemes operate at the business-to-business level, assuring businesses that the relevant standards and requirements for the product supplied have been followed. These schemes can be designed to protect the business' reputation and reduce the likelihood and impact of any liability claims. Currently, the fact that a product respects these baseline schemes is not communicated to the end consumers.

Question 15:

To what extent can certification schemes for quality products meet the main societal demands concerning product characteristics and farming methods?

To what extent is there a risk of consumers being misled by certification schemes assuring compliance with baseline requirements?

What are the costs and benefits for farmers and other producers of food (often small and medium-sized enterprises) in adhering to certification schemes?

Should a more active involvement of producers' organisations be promoted?

8.2. EU oversight

Because certification schemes are so varied, the legal framework governing their use is complex and spread across various policy areas. Certification schemes are subject to some constraints, namely:

- the rules of the internal market. Certification services should be freely available across borders. Schemes should not result in *de facto* barriers to trade in the internal market;
- rules on competition;
- consumer information and labelling requirements. Are consumers aware of what lies behind a label claim?
- specific legislation on the subject covered by the certification scheme.

The Commission sees no need in principle for further legislation to specifically address certification schemes on these issues, but drawing up a set of guidelines could be considered. These should be designed to assist scheme-owners in developing and improving schemes.

Question 16:

Could EU guidelines be sufficient to contribute to a more coherent development of certification schemes? What criteria would need to be included in such a guide or guidelines?

8.3. Reducing burdens and costs

The main costs of joining certification schemes fall into two groups: 'direct' and 'indirect'. Direct costs relate to membership fees, third-party inspection and certification. Indirect costs relate to compliance with certification scheme standards (investment costs for upgrading facilities) and recurring production costs.

The need to participate in more than one scheme appears to involve a significant (financial and administrative) burden, especially for small-scale producers. If a farmer does not join a particular scheme, his product may be excluded from certain market outlets.

The certification and control requirements applying to private schemes have to be added to the official control requirements.

Question 17:

How can the administrative costs and burdens of belonging to one or more quality certification schemes be reduced?

8.4. International dimension

In international trade, certification schemes can serve to promote and market products with certain quality characteristics. Given that most of the current schemes are privately owned, whether by farmers/producers, the food industry or retailers, European Commission involvement is minimal.

For farmers in developing countries supplying the EU market, private certification schemes represent both a cost and an opportunity. Farmers may have difficulties meeting the requirements imposed. However, if they can be certified under a scheme used by an EU retailer, they may be in a better position to sell into the EU.

In relation to animal welfare, the existence of extensive conditions of farming especially in developing countries could represent an important opportunity for developing trade in welfare friendly products as the certification of the production method could provide EU consumers with appropriate guarantees for the farming conditions.

Question 18:

How can private certification schemes be used to assist EU exports and promote European quality products in export markets?

How can the EU facilitate market access for producers in developing countries who need to comply with private certification schemes in order to supply particular retailers?

CONCLUSION

This has been a general presentation of agricultural product quality policy. The purpose of the Green Paper is to provoke debate and written contributions. Therefore all interested parties and stakeholders are invited to respond. As set out in the Commission's communication on 'Better regulation', policy development should be as transparent as possible and steps should only be taken after listening carefully to stakeholders.

The Green Paper is therefore the first step on the path of policy making. Contributions from respondents will provide the basis for the Commission's reflections in shaping a policy options paper, a Communication, which under current planning will be published in May 2009. The success of this Green Paper consultation relies on the willingness of a wide range of stakeholders to share and to explain their concerns, analysis and ideas in this essential public process.

The Commission will publish and examine the contributions and publish its own feedback.

Question 19:

Respondents are invited to raise any other issues concerning agricultural product quality policy that have not been covered.