Commission Regulation (EU) No 794/2011 of 8 August 2011 approving amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Parmigiano Reggiano (PDO))

COMMISSION REGULATION (EU) No 794/2011

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approving amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Parmigiano Reggiano (PDO))

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 9(2) thereof,

Whereas:

(1) Pursuant to Article 6(2) of Regulation (EC) No 510/2006, Italy's application for approval of amendments to the specification for the name 'Parmigiano Reggiano' was published in the *Official Journal of the European Union*[(2)].

(2) Belgium, Denmark and the Association des Importateurs de fromage registered in Basel, Switzerland, objected to the registration pursuant to Article 7(1) of Regulation (EC) No 510/2006. The objections by Belgium and Denmark were deemed admissible under points (a) and (c) of the first subparagraph of Article 7(3) of that Regulation. The objection by the Association des Importateurs de fromage was deemed inadmissible on the grounds of its having been submitted after the deadline.

(3) By letters dated 30 October 2009 the Commission invited the interested parties to hold appropriate consultations.

(4) Denmark's objection concerned the lack of justification for the obligation henceforth for cheese bearing the name 'Parmigiano Reggiano' to be portioned, grated and packaged within the defined geographical area. Following clarifications provided by Italy in the said consultations, Denmark withdrew its objection.

(5) Belgium's objection also concerned the lack of justification of such an obligation to portion, grate and package cheese bearing the name 'Parmigiano Reggiano' within the defined geographical area.

(6) Given that no agreement was reached between Belgium and Italy within a time limit of 6 months, the Commission must adopt a decision in accordance with the procedure laid down in the third subparagraph of Article 7(5) and in Article 15(2) of Regulation (EC) No 510/2006.

(7) In point 3.6 of the single document, Italy states that the said obligation 'is required because the marks identifying "Parmigiano Reggiano" on the whole cheese are lost or not visible on the grated or portioned product, making it necessary to guarantee the origin of the pre-packaged product. It is also required because of the need to guarantee that the cheese is packaged quickly after portioning using appropriate methods to prevent the cheese being dehydrated, oxidised or losing its original "Parmigiano Reggiano" organoleptic characteristics. Cutting into the cheese wheel deprives the cheese of the natural protection provided by the crust which, being itself highly dehydrated, insulates the cheese very well against the ambient air.'

(8) In the Commission's view, such a reason, designed to ensure the origin of the product in question, ensure optimum control thereof and preserve the product's physical and organoleptic quality is not vitiated by any manifest error of judgement on the part of the Italian authorities.

(9) Belgium, furthermore, in its objection cited Article 7(3)(c) of Regulation (EC) No 510/2006. Pursuant to that Article, statements of objection are admissible if they 'show that the registration of the name proposed would jeopardise […] the existence of products which have been legally on the market for at least 5 years preceding the date of the publication provided for in Article 6(2).'

(10) Belgium failed to provide concrete evidence of potential damage arising to Belgian undertakings from the entry into force of the amendments to the specification.

(11) It is, nonetheless, public knowledge that there are actually companies outside the defined geographical area engaged in portioning and/or packaging cheese bearing the name 'Parmigiano Reggiano'. Article 13(3) of Regulation (EC) No 510/2006 in this connection permits a transitional period of up to 5 years where a statement of objection has been declared admissible on the grounds that registration of the proposed name would jeopardise the existence of products which have been legally on the market for at least 5 years preceding the date of the publication provided for in Article 6(2) of that Regulation. Having regard in particular to ongoing contractual obligations and the need to adapt the market progressively following the amendments to the specification for the name 'Parmigiano Reggiano', operators not established in the geographical area defined in the specification should be allowed a transitional period of 1 year in so far as they were legally engaged in portioning and packaging 'Parmigiano Reggiano' outside the defined geographical area for at least 5 years prior to 16 April 2009. The duration of that transitional period is the same as that granted by Italy to operators engaged in portioning and packaging operations on its territory but outside the defined geographical area.

(12) In the light of the above, the amendments should be approved and a transitional period of 1 year introduced.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Protected Geographical Indications and Protected Designations of Origin,

HAS ADOPTED THIS REGULATION:

Article 1

The amendments to the specification published in the *Official Journal of the European Union* on 16 April 2009 regarding the name in the Annex to this Regulation are hereby approved.

Article 2

A transitional period of 1 year is introduced for operators not established within the geographical area defined in the specification for the name ‘Parmigiano Reggiano’ and who were legally engaged in the portioning and packaging of cheese bearing the name ‘Parmigiano Reggiano’ outside the said defined geographical area for at least 5 years prior to 16 April 2009.

Article 3

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 8 August 2011.

For the Commission

The President

José Manuel BARROSO