Commission Regulation (EC) No 583/2009 of 3 July 2009 entering a name in the register of protected designations of origin and protected geographical indications [Aceto Balsamico di Modena (PGI)]

COMMISSION REGULATION (EC) No 583/2009

of 3 July 2009

entering a name in the register of protected designations of origin and protected geographical indications [Aceto Balsamico di Modena (PGI)]

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 the third and fourth subparagraphs of Article 7(5) thereof,

Whereas:

(1) In accordance with Article 6(2) and pursuant to Article 17(2) of Regulation (EC) No 510/2006, Italy's application to register the name 'Aceto Balsamico di Modena' was published in the *Official Journal of the European Union*[(2)].

(2) Germany, Greece and France submitted objections to the registration under Article 7(1) of Regulation (EC) No 510/2006. These objections were deemed admissible under points (a) to (d) of the first subparagraph of Article 7(3) of that Regulation.

(3) Germany's objection referred in particular to the concern that the registration of 'Aceto Balsamico di Modena' as a protected geographical indication would adversely affect other products that have been placed lawfully on the market for at least five years and sold as Balsamessig/Aceto balsamico, as well as to the alleged generic character of these terms. Germany also pointed to the lack of clarity regarding the stages of production which must take place in the area of origin.

(4) France's objection concerned the fact that 'Aceto Balsamico di Modena' does not have its own reputation that is distinct from that of 'Aceto balsamico tradizionale di Modena', which has already been registered as a protected designation of origin under Council Regulation (EC) No 813/2000[(3)]. France claims that consumers could be misled as to the nature and origin of the product in question.

(5) Greece stressed the importance of balsamic vinegar production in Greece, which is marketed under names such as 'balsamico' or 'balsamon' and the negative impact that registration of the name 'Aceto Balsamico di Modena' would have on these products, which have been placed lawfully on the market for at least five years. Greece also maintains that the terms 'aceto balsamico', 'balsamic', etc. are generic.

(6) By letters dated 4 March 2008, the Commission asked the Member States concerned to seek agreement among themselves in accordance with their internal procedures.

(7) Given that no agreement was reached between France, Germany, Greece and Italy within the designated timeframe, the Commission must adopt a decision in accordance with the procedure outlined in Article 15(2) of Regulation (EC) No 510/2006.

(8) The Commission has requested the opinion of the scientific committee for designations of origin, geographical indications and certificates of specific character established under Decision 93/53/EC[(4)] as to whether the conditions for registration were met. The committee stated in its unanimous opinion submitted on 6 March 2006 that the name 'Aceto Balsamico di Modena' has an undeniable reputation on the national and international market, as demonstrated by its frequent use in numerous recipes in many Member States, and the many references to it on the Internet, in the press and other media. 'Aceto Balsamico di Modena' therefore meets the inherent condition for the product having a specific reputation linked to that name. The committee noted the fact that these products have co-existed on the market for hundreds of years. It also noted that 'Aceto Balsamico di Modena' and 'Aceto balsamico tradizionale di Modena' are different as regards their characteristics, customer base, usage, method of distribution, presentation and price, thereby ensuring the fair treatment of the producers in question and not misleading consumers. The Commission fully concurs with these points.

(9) In order to further distinguish between these products, it has been pointed out that numerical qualifiers were included in the general ban on using terms other than those expressly provided for in the technical specifications. Moreover, a number of minor changes have been made to the technical specifications for the term 'Aceto Balsamico di Modena' aimed at removing any ambiguities.

(10) It appears that Germany and Greece did not refer to the entire name, i.e. 'Aceto Balsamico di Modena' in their objections regarding the generic nature of the name proposed for registration, but only to some elements of it, namely the words 'aceto', 'balsamico' and 'aceto balsamico', or to translations thereof. However, protection is granted to the term 'Aceto Balsamico di Modena' as a whole. Individual non-geographical components of that term may be used, even jointly and also in translation, throughout the Community, provided the principles and rules applicable in the Community's legal order are respected.

(11) In the light of the above, the name 'Aceto Balsamico di Modena' should be entered in the register of protected designations of origin and protected geographical indications.

(12) 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 name contained in Annex I to this Regulation shall be entered in the register.

Article 2

A consolidated version of the summary containing the main points of the specification is set out in Annex II to this Regulation.

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, 3 July 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 583/2009. (See end of Document for details)*

ANNEX I

Agricultural products intended for human consumption listed in Annex I to the Treaty:

Class 1.8Other products listed in Annex I to the Treaty (spices, etc.)
ITALY

Aceto Balsamico di Modena (PGI)

ANNEX II

SUMMARYCouncil Regulation (EC) No 510/2006 on protected geographical indications and protected designations of origin of agricultural products and foodstuffs'ACETO BALSAMICO DI MODENA'EC No: IT-PGI-0005-0430-18.11.2004**PDO ( ) PGI (X)**

This summary sets out the main elements of the product specification for information purposes.

1. **Responsible department in the Member State:**

Name	:	Ministero delle politiche agricole alimentari e forestali
Address	:	Via XX Settembre, 20 — 00187 Roma
Tel.	:	06-4819968
Fax	:	06-42013126
E-mail	:	qualita@politicheagricole.it

2. **Group**

Name	:	Consorzio Aceto Balsamico di Modena Soc. Coop. a r.l. — Consorzio Produzione Certificata Aceto Balsamico Modenese — Comitato Produttori Indipendenti Aceto Balsamico di Modena
Address	:	c/o C.C.I.A.A. Via Ganaceto, 134 — 41100 Modena
Tel.	:	059/3163514
Fax	:	059/3163526
E-mail	:	info@consorziobalsamico.it
Composition	:	Producers/processors (X) Others ( )

3. **Type of product**

Group 1.8 — Other Annex I products — Vinegar

4. **Specification**

(summary of requirements under Article 4(2) of Regulation (EC) No 510/2006)

4.1. *Name*

'Aceto Balsamico di Modena'

4.2. *Description*

Analytical characteristics:

— density at 20 °C not less than 1,06 for the refined product,
— actual alcohol strength not more than 1,5 %,
— total acidity not less than 6 %,
— total sulphur dioxide: not more than 100 mg/l,