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FINAL REPORT OF AN AUDIT

CARRIED OUT IN

AUSTRIA

FROM 25 FEBRUARY TO 08 MARCH 2013

IN ORDER TO EVALUATE THE CONTROL SYSTEMS RELATED TO PROTECTED
DESIGNATIONS OF ORIGIN (PDO), PROTECTED GEOGRAPHICAL INDICATIONS (PGI)
AND TRADITIONAL SPECIALITIES GUARANTEED (TSG) FOR AGRICULTURAL
PRODUCTS AND FOODSTUFFS

Executive Summary

This report describes the outcome of a Food and Veterinary Office (FVO) audit in Austria, carried out between 25 February and 8 March 2013, under the provisions of Regulation (EC) No 882/2004 on official food and feed controls.

The objectives of the audit were the evaluation of the official control systems in place for the implementation of European Union legislation concerning:

- Protected Designations of Origin (PDOs), Protected Geographical Indications (PGIs) and Traditional Specialities Guaranteed (TSGs) for agricultural products and foodstuffs: Regulation (EU) No 1151/2012, Regulation (EC) 1898/2006 and Regulation (EC) No 1216/2007.*
- Traceability and labelling: Article 18 of Regulation (EC) No 178/2002 and Directive 2000/13/EC.*

Overall the relevant measures of national law are in place and the competent authorities (CAs) have been designated for the official controls of PDO/PGI/TSG. The objectives of this audit have been met to the extent that a satisfactory system of official controls is in place and works well. The frequency of inspections is based on the risk categories established for food safety purposes. The system is based on the use of control bodies (CBs) to carry out inspections at producer / processor level.

In Austria, the CBs approved by the regional CAs to undertake inspections for PDO/PGI/TSG are not yet accredited to EN 45011 but are in the process of accreditation. The supervision of the CBs by the central competent authority (CCA) is currently undertaken on an ad hoc basis. This weakness is being addressed through a pilot supervisory scheme, which was initiated in February 2013. The CB inspectors met during the audit did not always check all elements of the product specifications.

Controls on the market are undertaken by the regional CAs. This involves site visits to supermarkets every three years and in some regions specific campaigns have been organised. The regional CAs have no formalised method of feedback to the CCA in relation to the official controls of PDO/PGI/TSG.

The report makes a number of recommendations to the competent authorities, aimed at rectifying the shortcomings identified and enhancing the implementation of control measures.

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ABBREVIATIONS AND DEFINITIONS USED IN THIS REPORT

Abbreviation	Explanation
AGES	Austrian Agency for Health and Food Safety
BGBI	Federal Law Gazette of the Republic of Austria
BMG	Federal Ministry of Health
BTSF	Better Training for Safer Food
CA(s)	Competent Authority(ies)
CB(s)	Control Body(ies)
CCA(s)	Central Competent Authority(ies)
DG AGRI	Agriculture and Rural Development Directorate General
DG SANCO	Health and Consumers Directorate-General
DOOR	Database of Origin and Registration
EN	European Standard
EU	European Union
FBO(s)	Food Business Operator(s)
FVO	Food and Veterinary Office
ISO	International Organisation for Standardisation
LMSVG	The Food Safety and Consumer Protection Act
LH	<i>Landeshauptmann (Lander Prime Minister)</i>
PDO(s)	Protected Designation(s) of Origin
PG	Producer Group

PFN(s)	Protected Food Name(s) (includes PDO, PGI, TSG)
PGI(s)	Protected Geographical Indication(s)
TSG(s)	Traditional Speciality(ies) Guaranteed

1 INTRODUCTION

The audit formed part of the Food and Veterinary Office's (FVO) planned programme.

The audit took place from 25 February to 8 March 2013. The team comprised two inspector(s) from the FVO, one official from Agricultural and Rural Development Directorate General (DG AGRI) and one expert from a European Union (EU) Member State (MS).

Representatives from the central competent authority (CCA), the Federal Ministry of Health (BMG) accompanied the audit team for the duration of the audit. An opening meeting was held on 25 February 2013 with the CCA and with representatives of the three regional competent authorities (CAs) visited during this audit. At this meeting, the objectives of, and itinerary for the audit were confirmed and the control systems were described by the authorities.

2 OBJECTIVES AND SCOPE

The **objectives** of the audit were :

the evaluation of the official control systems in place for the implementation of EU legislation concerning:

- Protected Designations of Origin (PDOs), Protected Geographical Indications (PGIs), Traditional Specialities Guaranteed (TSGs) for agricultural products and foodstuffs: Regulation (EU) No 1151/2012 of the European Parliament and Council, Regulation (EC) No 1898/2006 and Regulation (EC) No 1216/2007;
- Traceability and labelling: Article 18 of Regulation (EC) No 178/2002 and Directive 2000/13/EC.

The EU schemes known as PDO, PGI and TSG promote and protect names of quality agricultural products and foodstuffs. These schemes encourage diverse agricultural production, protect product names from, *inter alia*, misuse, evocation and imitation and help consumers by giving them information concerning the specific character of the products:

- PDO - covers agricultural products and foodstuffs which are produced, processed and prepared in a given geographical area using recognised know-how.
- PGI - covers agricultural products and foodstuffs closely linked to the geographical area. At least one of the stages of production, processing or preparation takes place in the area.
- TSG - highlights traditional character, either in the raw materials, composition or means of production.

Further details on the quality schemes are available on the following website:

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

In terms of **scope**, the audit reviewed the designation of CAs for PDOs, PGIs, and TSGs schemes, their co-operation, audits and resources for performance of controls, as well as control procedures. In the context of this audit the following sample of protected food names (PFNs) were to be officially controlled:

3 PDO products

3 PGI products

In pursuit of these objectives, the following sites were visited:

Visits/meetings		Comments
Competent Authorities		
Central	1	At the opening meeting representatives from the CCA and the three regional CAs visited as part of this audit were in attendance. The audit team met with each regional CA individually during the audit. At the closing meeting representatives from the CCA and one regional CA attended.
Regional	3	
Control Bodies		
CBs	1	A meeting was held in the premises of one out of the three CBs met during this audit.
Establishments		
PDO producers / processors	2	Cheese Producers
PGI processor of animal origin	1	Meat Processor
PGI processors of non animal origin	2	One large and one small processor
Marketing Company	1	Promoting a PDO cheese
Dairy Farm	1	Producer of raw milk
Horticultural Farms	2	Producers of vegetables
Supermarket	1	A large supermarket
Producer Group	1	A producer group for a PGI product of non animal origin.

3 LEGAL BASIS AND STANDARDS

3.1 LEGAL BASIS

The audit was carried out under the general provisions of EU legislation, in particular:

- Article 45 of Regulation (EC) No 882/2004 of the European Parliament and of the Council.

EU legal acts quoted in this report refer, where applicable, to the most recently amended version. Full references to the EU acts quoted in this report are given in Annex 1.

4 BACKGROUND

4.1 COUNTRY PROFILE

The FVO has published a country profile for Austria, which describes in summary the control systems for food and feed, animal health, animal welfare and plant health and gives an overview on the state of play of the recommendations of the previous FVO audits. The country profile for Austria can be found at: http://ec.europa.eu/food/fvo/country_profiles_en.cfm

4.2 STATUS OF REGISTERED PRODUCTS IN AUSTRIA

There are eight PDO and six PGI products from Austria registered on the Database of Origin and Registration (DOOR). In conjunction with DG AGRI, six PFNs were selected to form part of this audit. The criteria for selection was to include at least one PDO and one PGI product and also to focus on the products generating significant economic value and production volume.

5 FINDINGS AND CONCLUSIONS

5.1 RELEVANT NATIONAL LEGISLATION

Legal Requirements

Art. 291 of the Treaty on the Functioning of the EU establishes that MSs shall adopt all measures of national law necessary to implement legally binding EU acts.

Findings

The main national legislation for official controls of product specifications in the context of Regulation (EU) No 1151/2012 is 'The Food Safety and Consumer Protection Act' (LMSVG), Federal Law Gazette of the Republic of Austria (BGBl. I Nr. 13/2006, last amended by Federal Act, BGBl. I No 95/2010. The LMSVG also implements and incorporates Regulation (EC) No 882/2004.

The CCA stated that the next revision of the LMSVG will update all references to Regulations (EC) No 509/2006 and 510/2006 to the corresponding title or chapter of Regulation (EU) No 1151/2012. Citations to Regulations (EC) No 509/2006 and 510/2006 correspond to the relevant title or chapter of Regulation (EU) No 1151/2012.

Currently the national legislation in operation relating to Regulation (EC) No 510/2006 is as follows:

Section 24 (1) point 1 of the LMSVG refers to the official controls undertaken by the Länder Prime Minister (Landeshauptmann (LH)) as the regional CA which includes those official controls described in Regulation (EC) 510/2006.

Section 45(3) LMSVG states that any business operator engaged in manufacturing products connected with protected indications, designations or names shall be required to submit his manufacturing activities for the controls provided for in paragraph (1) and to notify the Provincial Government Office accordingly.

The Austrian Patent Office is responsible for the registration of PDO/PGI products and the LH for official controls.

In relation to Regulation (EC) No 509/2006 the national legislation in operation is as follows:

Section 4 (1) LMSVG (dealing with enforcement of EU Law) in conjunction with Part 1, point 14 of the Annex, and Section 45 of the LMSVG is relevant for the official controls of TSG products.

The BMG is responsible for registration procedures for TSG, and the LH for official controls.

Conclusions

Relevant measures of national law are in place to facilitate official controls of PDO/PGI/TSG.

5.2 ORGANISATION AND IMPLEMENTATION OF OFFICIAL CONTROLS

5.2.1 CAs: Designation, Cooperation and Coordination

Legal Requirements

Article 36 (1) of Regulation (EU) No 1151/2012 requires MSs to designate CAs or authorities responsible for official controls carried out to verify compliance with the legal requirements related to the quality schemes established by this Regulation in conformity with Regulation (EC) 882/2004.

Article 37 (1) of Council Regulation (EU) No 1151/2012 establishes that verification of compliance with the specifications before placing a product on the market can also be ensured by one or more control bodies (CBs) within the meaning of Article 2 of Regulation (EC) No 882/2004 operating as a product certification body.

Article 4 (3) of Regulation (EC) No 882/2004 provides for efficient and effective coordination between CAs.

Article 4 (5) of Regulation (EC) No 882/2004 requires that when, within a CA, more than one unit is competent to carry out official controls, efficient and effective coordination and cooperation shall be ensured between the different units.

Findings

The main legislation establishing the responsibilities of the CAs is the LMSVG. The CCA within the scope of this audit is the BMG - Departments II/B/13 (food legislation, food safety and food quality). The CCA is responsible for drafting of legislation, co-ordination of monitoring of goods and training. At regional level the LH implements the federal food policy. The LH must follow the instructions issued by the BMG.

The official controls at producer / processor level to ensure compliance with the registered specifications are carried out by delegated CBs. The official controls of PDO/PGI/TSG on the market are undertaken by the regional CAs. In the three regions visited, Tyrol, Vorarlberg and Styria, market controls of PDO/PGI/TSG are undertaken as part of the broader market controls and include labelling, symbol use and protection from deception.

The LMSVG addresses cooperation and coordination within and between CAs. For example if non-compliances are detected within a region and only affect that region, all reporting and follow up is handled within the region. If the non-compliances affect other regions, Article 42 of the LMSVG requires that such information must be shared with the CAs of all other regions and the BMG.

Although cooperation and coordination of CAs is well established for food safety, the regional CAs have no formalised method of feedback to the CCA in relation to the official controls of PDO/PGI/TSG on the market or those controls undertaken by CBs at producer / processor level. There is only a general, not formalised point for reporting in the annual reports to the CCA.

Conclusions

The CAs have been designated for official controls of PDO/PGI/TSG.

The regional CAs have delegated the official controls for producers / processors of PDO/PGI products to Cbs.

The cooperation and coordination that exists for food safety is not yet fully established for official controls of PDO/PGI/TSG.

5.2.2 Control Bodies

Legal Requirements

Article 39 (1) of Regulation (EU) No 1151/2012 states that CAs may delegate, in accordance with Article 5 of Regulation (EC) No 882/2004, specific tasks related to official controls of the quality schemes to one or more CBs.

Article 39 (2) of Regulation (EU) No 1151/2012 requires that such CBs shall be accredited in accordance with European standard EN 45011 or International Organization for Standardisation ISO/IEC Guide 65¹ (General requirements for bodies operating product certification systems).

¹ The ISO / IEC 17065: 2012 – Conformity assessment – Requirements for bodies certifying products, processes and services, was published in September 2012 and will replace ISO Guide 65 and EN 45011. In accordance with an International Accreditation Forum (IAF) decision, the implementation of the new standard will be subject to a 3 year transition period.

Article 5 (2) (e) of Regulation (EC) No 882/2004 requires the CBs to communicate the results of the controls carried out to the CA on a regular basis and whenever the CA so requests. If the results of the controls indicate non-compliance or point to the likelihood of non-compliance, the CB shall immediately inform the CA.

Article 5 (2) (f) of Regulation (EC) No 882/2004 requires that there is efficient and effective coordination between the delegating CA and the CB.

Article 5 (3) of Regulation (EC) No 882/2004 requires that CAs delegating specific tasks to CBs shall organise audits or inspections of CBs as necessary.

Findings

Monitoring of compliance with product specification rules in accordance with Regulation (EC) No 510/2006 has been delegated to the CBs listed in Annex IA 04 to the Multiannual Integrated Control Plan 2011-2015. Such delegation is authorised by the CCA. The regional CA is responsible for approving the CBs which are located in their region. Once approved the CBs are eligible to operate throughout Austria. The supervision of the CB is the responsibility of regional CA in which the CB operates. Each CB has to be specifically approved for each PFN for which it is chosen to be the inspection body. This specific approval is in the form of an official letter from the regional CA. Orders issued by the CA must be complied with by the CB. They perform the control tasks as delegated.

The CCA confirmed that CBs are not currently accredited under EN 45011 (General requirements for bodies operating product certification systems), but they are all in the accreditation process. Many of the CBs are already accredited under EN 45011 for undertaking official controls in areas such as organic farming. Therefore, the CBs in question have quality systems in place which includes having a Quality Management Handbook. Accreditation in Austria is performed by the accreditation department within the Federal Ministry for Economic Affairs, Family and Youth. The CCA explained that the accreditation department had not issued any accreditation to CBs to undertake official controls on PDO/PGI/TSG to date. This was due to the accreditation department's concerns that certain product specifications had weaknesses in their ability to be audited against. As a result a number of applications for amendments to product specifications had been submitted to the Austrian Patent Office.

The supervision of the CBs by the CAs is currently undertaken on an ad hoc basis. The audit team were informed by the CCA that a pilot supervisory scheme was in progress since the 1st February 2013. The checklist to validate the compliance of the CBs with EN 45011 was provided to the audit team and the proposal is to audit / inspect the CBs according Article 5(3) Regulation (EC) No 882/2004 as necessary. The audit team met with the regional CA of Vorarlberg. The CB which operates in Vorarlberg is based in Upper Austria and therefore is not under the direct supervision of the Vorarlberg regional CA. However, the regional CA is required to undertake its own verification audit of selected food business operators (FBOs) that have previously been controlled by the CBs to establish the consistency of the CBs' work. The audit team were shown a copy of such a verification report and it was noted that it mainly dealt with food hygiene issues rather than PDO/PGI specific issues. The regional CA in Vorarlberg receives an annual report according section 45 (9) LMSVG from the CB which covers the CB's activities in other regions and other subject matter. A similar arrangement was in place in Styria.

Conclusions

The CBs used for undertaking official controls for PDO/PGI/TSG are not yet accredited under EN 45011 which is not in line with the requirements of Article 39 (1) of Regulation (EU) No 1151/2012. The audit team noted that the CBs are all well advanced in the process of becoming accredited, many already having quality systems in place.

The delegation of official controls of PDO/PGI/TSG to CBs is currently not adequately supervised as the CCA does not undertake audits / inspections of the CBs which is not in line with the requirements of Article 5 of Regulation (EC) 882/2004. The pilot supervisory scheme described by the CCA will remedy this situation in due course.

5.2.3 Resources for Performance of Controls

Legal Requirements

Article 4 of Regulation (EC) No 882/2004 requires the CAs to ensure that they have access to a sufficient number of suitably qualified and experienced staff; that appropriate and properly maintained facilities and equipment are available.

Article 6 of Regulation (EC) No 882/2004 requires CAs to ensure that staff receive appropriate training, and are kept up-to-date in their competencies.

Article 36 (2) of Regulation (EU) No 1151/2012 requires CAs and CBs to offer adequate guarantees of objectivity and impartiality and have at their disposal the qualified staff and resources necessary to carry out their functions.

Findings

5.2.3.1 Market Controls for PDO/PGI/TSG

Given the broad scope of the CAs' activities under the LMSVG, it is not possible to break down the number of full-time equivalents specifically allocated to PDO/PGI/TSG. Workers within each regional CA receive training in accordance with the LMSVG Ordinance on basic and continuing training (*Aus und Weiterbildungsverordnung* (BGBl II, No 275/2008). Continuing training under the LMSVG and the above Ordinance is the responsibility of the regional CA. All inspectors met from the CAs were qualified to a sufficient level to carry out their duties.

5.2.3.2 Official Controls of Producers/Processors of PDO/PGI/TSG

The CBs themselves are responsible for the initial and continuing training of their staff and for ensuring that their staffing numbers are sufficient, as described in the Quality Management Handbook, and this is checked by the accreditation department and the CAs as part of their monitoring activities.

No inspectors met from the CBs or the regional CAs during this audit had attended the Health and Consumers Directorate General (DG SANCO) Better Training for Safer Food (BTSF) relating to Quality Schemes.

Conclusions

There were sufficient, suitably qualified and experienced staff available to undertake official controls of PDO/ PGI/TSG.

5.2.4 Prioritisation of Official Controls

Legal Requirements

Article 3 of Regulation (EC) No 882/2004 requires that official controls are carried out regularly, on a risk basis and with appropriate frequency, taking account of (a) identified risks; (b) the food business operators' (FBOs) past record as regards compliance; (c) the reliability of any own checks that have already been carried out; and (d) any information that might indicate non-compliance.

Article 10 (2) (a) of Regulation (EC) No 882/2004 requires that official controls on food and feed include, *inter alia*, examination of any control systems that feed and FBOs have put in place and the results obtained.

Findings

Inspection and sampling are carried out according to a national control and sampling plan. The plan is prepared by staff in unit II/B/13 of the BMG in cooperation with the Austrian Agency for Health and Food Safety (AGES) and Länder in various working groups. Risk based national targets are incorporated into the control and sampling plan by means of specific campaigns. The control plan covers all establishments dealing with food and is risk based for food safety issues. There is no specific risk analysis for the official controls of PDO/PGI/TSG products on the market in Austria.

There are nine risk categories which are based on size of production, the specific risk associated with the company and the results of previous inspections. Establishments producing ice cream or egg based products are in the highest classification which is category nine. Establishments producing or processing milk are in category eight, restaurants in category seven. All supermarkets and food shops are in category six. The supermarkets are subject to a full inspection every third year. Such an inspection covers the FBOs' own controls, premises and equipment, hygiene and labelling. The labelling controls include aspects of PDO/PGI/TSG official controls.

The site visits (see section 5.2.5) confirmed that producers / processors were subject to an inspection by the CB every year. The CBs also inspected growers on a regular basis.

Conclusions

Official controls on PDO/PGI/TSG are carried out regularly and are risk based and are in line with Article 3 of Regulation (EC) No 882/2004.

5.2.5 Controls at Visited Premises and Procedures and Performance of Control Activities

Legal Requirements

Article 46 (1) of Regulation (EU) No 1151/2012 requires MSs to ensure that any operator

complying with the rules of a quality scheme set out in Titles II and III of this Regulation is entitled to be covered by the verification of compliance established pursuant to Article 37.

Article 37 (1) of Regulation (EU) No 1151/2012 requires that in respect of PDO/PGI/TSG that designate products originating within the Union, verification of compliance with the product specifications, before placing the product on the market, shall be carried out by: (a) one or more of the CAs referred to in Article 36 of this Regulation; and / or (b) one or more of the control bodies within the meaning of point 5 of Article 2 of Regulation (EC) No 882/2004 operating a product certification body.

Article 13 (1) of Regulation (EU) No 1151/2012 requires that registered names shall be protected against (a) a direct or indirect commercial use of a registered name in respect of products not covered by the registration (b) any misuse, imitation or evocation, even if the true origin of the product is indicated (c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the packaging, advertising material or documents relating to the product concerned (d) any other practice liable to mislead the consumer as to the true origin of the product.

Article 10 (2) (b) (vi) of Regulation (EC) No 882/2004 requires that official controls on food include, the inspection of labelling, presentation and advertising.

Article 10 (2) (a) of Regulation (EC) No 882/2004 requires that official controls on food and feed include, *inter alia*, examination of any control systems that and FBOs have put in place and the results obtained.

Article 18 of Regulation (EC) No 178/2002 establishes traceability requirements in food and feed.

Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the MSs relating to the labelling, presentation and advertising of foodstuffs provides the legal framework for food labelling.

Article 8 of Regulation (EC) No 882/2004 requires that CAs carry out their official controls in accordance with documented procedures, containing information and instructions for staff performing official controls.

Article 9 of the above Regulation requires CAs to draw up reports on the official controls carried out, including a description of the purpose of official controls, the methods applied, the results obtained and any action to be taken by the business operator concerned.

Findings

The audit team were informed that CBs generally do not announce their audits however, in practice to ensure that the relevant personnel are present some notice is given. The CB inspector always prepares a report of each inspection and gives a copy to the FBO. A copy of each inspection report is not automatically provided to the regional CAs. This would only happen in the event of a serious non-compliance being detected and this situation has not arisen to date.

Controls of the market are always unannounced and no copy of the report is given to the FBO unless a non-compliance is detected.

Since the AGES computer system does not currently have any specific means of distinguishing PDO/PGI/TSG, the number of controls and samples taken cannot be specified exactly. In the new computer system due to come into operation in 2014, yes/no fields will be included in the control and sampling templates, and there are plans to add a report form for PDO/PGI/TSG samples similar to that already in use for organic products. At the moment, lists can only be obtained from the AGES sample analysis system from 2011 onwards for tests carried out according to the corresponding legal standards.

First Site Visit

The first site visit undertaken by the audit team was to the producer of a PDO cheese product. The inspector had previously visited the producer on four occasions and had detected no major non-compliances. The inspector was provided with a product specific checklist by the CB and used it throughout the inspection. The audit team noted that the checklist did not list all the key elements of the product specification. There were a number of measurable audit points in the product specification with which the producer was not in compliance. The inspector failed to note these non-compliances in any previous inspection. The inspector also failed to note that the batch numbering used by the producer was not consecutive as described in the product specification. The audit team requested the documentary evidence to illustrate one step of the process which was described in the product specification. The processor stated that such records existed however they were not available for inspection even though the inspection was pre announced. The inspector undertook a mass balance exercise and this was satisfactory. The inspector reviewed the labelling of the product and noted that it was not in compliance. The inspector noted this in the inspection report and stated that he would follow up the issue within a specific time period.

Second Site Visit

The second site visit was to a producer of a PDO cheese. The inspector met reviewed the production process from receipt of raw milk to packaging of the product. The inspector provided the audit team with a copy of the previous inspection report which was undertaken in March 2012. This was the initial verification of compliance with the specification before placing the product on the market. Although the report contained no negative findings and indicated that the product was produced in line with the product specification, there was no documentary evidence referenced to verify this. The audit team specifically requested copies of temperature and humidity records however the FBO confirmed that there was no means to measure these parameters. The inspector was not equipped with a thermometer. The checklist being used was the same generic one described in the first site visit and had no detailed listing of the characteristics that needed documentary checking; examples include temperature, humidity, organoleptic testing. The producer was required to undertake a specific action twice a week however, the inspector did not request any records to evidence that this was undertaken. The inspector calculated the mass balance based on current stocks of cheese and invoices issued by the FBO and the inspector undertook this task adequately. The current labelling for this PDO cheese does not bear the PDO symbol. The producer stated that they would commence using it in the second quarter of 2013. The inspector noted this in the report and stated that he would follow up the issue within a specific time period.

Third Site Visit

The third site visit was a raw milk producer for a PDO cheese. The inspector checked all feed being used on the farm and confirmed through documentary checks that grass and hay were the main feedingstuffs used. The cheese producer organised the milk collections and details of volume, place

of collection and date were adequately recorded. A sample is taken for laboratory analysis on every milk collection to determine the fat content and test for the presence of clostridia. The inspector stated that these laboratory results were given to the PDO cheese producer. In the case of non-compliance, the farmer would be alerted by the cheese producer and such milk would be rejected.

Fourth Site Visit

The fourth site visited by the audit team was to a producer of a PGI product of animal origin. The inspector stated that he did not bring a calibrated thermometer on any site visits as even if a discrepancy in temperature was detected by the CB inspector, the FBO had the right to challenge such findings.

The inspector undertook a traceability exercise of a random sample of the finished PGI product and this was considered satisfactory by the inspector. The audit team reviewed the laboratory results for the analysis undertaken for the PGI product. The inspector stated that the CCA as well as the Accreditation body request that accredited laboratories have to be used for analytical controls of PDO/PGI. The CB inspector can choose from among the listed laboratories. The accredited laboratory used by this CB presented the results of analysis with the measurement uncertainty. The range of chemical analysis undertaken reflected the chemical parameters mentioned in the product specification, however there was no evidence or reference on the laboratory report that the range of analysis was based on the product specification. The laboratory report included a generic statement that the organoleptic properties of the product had been tested. There was no description of which specific organoleptic tests were undertaken. The inspector stated that he received the laboratory results and always informed the quality manager of the FBO of these. The CA was only informed if non compliant laboratory results were received.

The inspector had written on the checklist from the previous inspection undertaken in November 2012 that temperatures and relative humidity had been considered satisfactory. In one inspection report the inspector had simply ticked the box stating that the temperature and humidity records were satisfactory. Although the report contained no negative findings and indicated that the product was produced in line with the product specification, there was no documentary evidence referenced to verify this. In another inspection report, it was noted by the inspector that he had checked the temperature and relative humidity records for a two week period. However, the specific dates of this two week period were not identified. The audit team was subsequently shown the FBO's temperature and humidity recordings which were automatically recorded and registered in an IT system. The system did not allow the printing off of any records. There were a number of descriptions in the product specification which were superfluous and these and other issues, such as the approach to testing organoleptic characteristics, were currently being discussed as part of a planned amendment of the product specification which was currently being reviewed by the Austrian Patent Office.

Fifth Site Visit

The fifth site visited by the audit team was to a marketing company for a PDO cheese which ripened and packaged the product. The audit team confirmed that this FBO was also controlled by the CB on an annual basis. The inspection reports were reviewed by the audit team and although the report contained no negative findings and indicated that the product was produced in line with the product specification there was no documentary evidence referenced to verify this. The audit team were shown the FBO's traceability systems for a sample which was pre selected by the FBO. This FBO had prepared professional labels to ensure supermarkets which marketed their PDO product

used labels with the correct PDO symbol and registered name.

Sixth Site Visit

The sixth site visited by the audit team was to a large supermarket. The inspector of the Regional CA was equipped with a camera and initially focussed on a selection of products for which he had printed off the product specifications from the DOOR. Products were observed for inclusion of the appropriate logo and the correct use of the registered name on the PFNs. Loose PFNs on display in the cabinets were not specifically identified. The CCA stated that in Austria, a derogation applied to the labelling of any loose products. The inspector correctly identified the main PFNs to be controlled which included a wide range of products from other MSs and also identified a number of products that required further investigation for incorrect use of the registered name. These issues were to be followed up by the inspector directly with the producers or CAs from other MSs.

Seventh Site Visit

The seventh site visited by the audit team was to a producer group (PG) for a PGI product of non animal origin. The PG had 2,500 members, comprising growers and producers / processors. The membership ranged in size and membership fees were based on a sliding scale based on size of organisation. The PG employed three people, was a non profit organisation and controlled all steps outlined in the product specification. The PG had separate contracts with each individual member regarding the specifications required of them. A key element of membership was to accept inspection by the CB which was appointed by the PG for all its members. The PG had a robust system to ensure that its PGI product was produced according to the product specification and was marketed with the appropriate labelling and PGI symbol. The CB was required to inspect 10% of the growers each year. Processors, depending on the process, are required to be inspected at least every second year and possibly every year.

Eighth Site Visit

The eighth site visit was to a processor of a PGI product of non animal origin. The CB inspector was unable to attend due to illness, so the FBO provided past inspection reports which were on file. The inspection reports were reviewed by the audit team and although the report contained no negative findings and indicated that the product was produced in line with the product specification there was no documentary evidence referenced to verify this. The report contained a mass balance calculation of the final product with raw materials and this was in order. The FBO stated that organoleptic qualities of the PGI product produced on this site were mainly checked through participation in an annual competition which used specifically trained taste panels of tasters to assess the PGI product. The product from the previous harvest would already be on the market by the time this annual competition takes place.

Ninth Site Visit

The ninth site visit was to a producer of a PGI product. The CB inspector reviewed the previous inspection report from November 2012 and explained how the mass balance exercise was undertaken. Although the report contained no negative findings and indicated that the product was produced in line with the product specification there was no documentary evidence referenced to verify this.

Tenth Site Visit

The tenth site visit was to a processor of a PGI product of non animal origin. There was a requirement to inspect such processors once per year. The inspections were done according to the harvest season of each year which lasts from October to December. The CB inspector provided a previous inspection report from November 2011 which was reviewed by the audit team. The report had been satisfactorily completed with references to documents checked. The CB inspector checked the records of goods received and cross checked that the PGI product had been produced by a grower which had been inspected and certified by the CB as being in compliance with the product specifications. The FBO's temperature records in the storage rooms of the unprepared raw material were also reviewed by the inspector, however the inspector did not have a thermometer himself. The temperature requirements were given in the product specification as "can be stored for reasons of a continuous marketing at a temperature of minus two degrees". The temperatures recorded by the FBO were an average of three measurements from different sensors. The average value of these three readings was recorded by the FBO.

Eleventh Site Visit

The eleventh site visit was to a grower of a PGI product. The CB inspector had previously inspected the grower in November 2012. There was a requirement to inspect the grower once a year and in the four inspections undertaken since 2009, no non-compliances had been found. The audit team reviewed a previous report and it was completed correctly. A section of the product specifications dealing with horticultural issues occurring during the Summer had never been assessed. The CB inspector explained that this was not undertaken as it would require an additional inspection by the CB which was considered disproportionate in relation to the risks of non-compliance.

Conclusions

A system of official controls of PDO/PGI/TSG is in place and is based on the use of CBs to carry out inspections at producer / processor level.

Official controls are undertaken on average once a year at the producer / processor level.

All CB inspectors met used checklists prepared by the respective CBs.

The CB inspectors did not always check each parameter of the product specification which is contrary to Article 37 of Regulation (EU) No 1151/2012.

The exercises on traceability observed were adequate.

Official controls are carried out in accordance with documented procedures as required by Article 8 of Regulation (EC) No 882/2004.

Reports are drawn up following all inspections undertaken by CB inspectors in producers / processors of PDO/PGI/TSG in line with Article 9 Regulation (EC) No 882/2004.

Reports are drawn up following inspections undertaken by regional CAs on the market only in cases where non-compliances have been found in line with Article 9 Regulation (EC) No 882/2004.

5.2.6 *Enforcement Measures*

Legal Requirements

Article 54 of Regulation (EC) No 882/2004 requires a CA which identifies a non-compliance to take appropriate action to ensure that the operator remedies the situation.

Article 55 of Regulation (EC) No 882/2004 states that MSs shall lay down the rules on sanctions applicable to infringements of feed and food law and other EU provisions relating to the protection of animal health and welfare and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive.

Findings

In the area of official controls of PDO/PGI/TSG the CAs have the right and the duty according to Article 39 of the LMSVG to impose appropriate measures in case of infringements, which also includes PDO/PGI/TSG. These measures include: a ban on importing, seizure, recall or the imposition of corrective measures on the establishment.

Generally the CAs may also forward evidence of infringements (suspicion of fraud) to competent judicial authorities.

In general and also with respect to PDO/PGI/TSG, two types of measures are laid down in the LMSVG: measures to remedy shortcomings under Section 39 LMSVG and punitive measures (sanctions). The legal basis for sanctions is not only Section 35 (7) LMSVG but also Section 90 LMSVG (offences subject to administrative proceedings).

There are two types of sanctions according LMSVG available; imposition of fines directly by food inspectors and administrative procedures. Cases of non-conformity are dealt with by the relevant CA in accordance with the LMSVG (warning, notice, prescription of measures and decisions pursuant to Section 39 LMSVG, compulsory follow-up inspection subject to a fee).

Authorised CBs have a catalogue of measures/penalties to which they refer when non-compliances are identified during inspection. Where serious irregularities are established during controls, the CBs notify the regional CAs according to section 45 (8) LMSVG. Any measures/penalty is imposed by the latter in accordance with the proportionality principle (notice, administrative measures, marketing ban). Cases of suspected fraud are referred to the public prosecutor's office.

No non-compliances for PDO/PGI/TSG on the market had been detected to date in Tyrol. In Vorarlberg, product specific campaigns were used by the regional CA to undertake market controls. In Vorarlberg and Styria, labelling non-compliances had been detected. They related to producers using the PDO/PGI symbols which had not registered their activities with the producer groups and consequently were not subject to official controls by the CB.

Conclusions

There are national legal requirements in place to ensure that appropriate action is taken in cases of non-compliances as required by Article 54 of Regulation (EC) No 882/2004.

There are rules laid down for sanctions applicable to infringements of food law as required by Article 55 of Regulation (EC) No 882/2004.

6 OVERALL CONCLUSION

Overall the relevant measures of national law are in place and the CAs have been designated for the official controls of PDO/PGI/TSG. The objectives of this audit have been met to the extent that a satisfactory system of official controls is in place and works well. The frequency of inspections is based on the risk categories established for food safety purposes. The system is based on the use of CBs to carry out inspections at producer / processor level.

In Austria, the CBs approved by the regional CAs to undertake inspections for PDO/PGI/TSG are not yet accredited to EN 45011 but are in the process of accreditation. The supervision of the CBs by the CCA is currently undertaken on an ad hoc basis. This weakness is being addressed through a pilot supervisory scheme, which was initiated in February 2013. The CB inspectors met during the audit did not always check all elements of the product specifications.

Controls on the market are undertaken by the regional CAs. This involves site visits to supermarkets every three years and in some regions specific campaigns have been organised. The regional CAs have no formalised method of feedback to the CCA in relation to the official controls of PDO/PGI/TSG.

7 CLOSING MEETING

A closing meeting was held on 8 March 2013 with representatives of the CCA and one regional CA. At this meeting, the audit team presented the main findings of the audit and a number of points were clarified.

8 RECOMMENDATIONS

The CAs are invited to provide details of the actions taken and planned, including deadlines for their completion ('action plan'), aimed at addressing the recommendations set out below, within twenty five working days of receipt of this audit report.

The CA should:

N°.	Recommendation
1.	Ensure that CBs are accredited in accordance with EN 45011 / ISO IEC 65 (General requirements for bodies operating product certification systems) as required by Article 39 (2) of Regulation (EU) No 1151/2012.
2.	Ensure that the CBs to which official control tasks are delegated are audited / inspected as necessary as required by Article 5(3) of Regulation (EC) No 882/2004.

N°.	Recommendation
3.	Ensure that CBs carry out verification of compliance with product specifications effectively, in order to comply with Articles 36 and 37 of Regulation (EU) No 1151/2012.

The competent authority's response to the recommendations can be found at:

http://ec.europa.eu/food/fvo/rep_details_en.cfm?rep_inspection_ref=2013-6653

ANNEX 1 - LEGAL REFERENCES

Legal Reference	Official Journal	Title
<i>Horizontal Legislation</i>		
Reg. 178/2002	OJ L 31, 1.2.2002, p. 1-24	Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety
Reg. 882/2004	OJ L 165, 30.4.2004, p. 1, Corrected and re-published in OJ L 191, 28.5.2004, p. 1	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
<i>Labelling Legislation</i>		
Dir. 2000/13/EC	OJ L 109, 6.5.2000, p. 29-42	Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs
<i>PDO/PGI/TSG Legislation</i>		
Reg. 1151/2012	OJ L 343, 14.12.2012, p. 1-29	Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs
Reg. 1898/2006	OJ L 369, 23.12.2006, p. 1-19	Commission Regulation (EC) No 1898/2006 of 14 December 2006 laying down detailed rules of implementation of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

Legal Reference	Official Journal	Title
Reg. 1216/2007	OJ L 275, 19.10.2007, p. 3-15	Commission Regulation (EC) No 1216/2007 of 18 October 2007 laying down detailed rules for the implementation of Council Regulation (EC) No 509/2006 on agricultural products and foodstuffs as traditional specialities guaranteed

