

DOLPHINS WP 6 CHECKLIST FRANCE

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A. Legal protection for OLPs	
1. Legal frame for the protection of OLPs	
A.1.1. What are the legal provisions in order to implement the EC Regulation 2081/92 in your country?	Loi 94-2 du 3 janvier 1994 du code de la consommation See the articles L. 642-1 to L 642-4 ; L 643-1 to L 643-8 ; L 644-1 to L 644-4 ; and L 646-1 of the Code rural, and their provisions for application (articles referenced R).
A.1.2. What are the other legal regulations and provisions to provide protection for OLPs in your country, out of the EC Regulation 2081/92?	Article L115-1 du code de la consommation + 115-15, 115-8 Article L721-1 du code rural See the articles L 641-1 to L 641-25 of the Code rural regarding the “appellations d’origine contrôlée” (AOC) including wines and spirits. See the articles L 115-1 to L 115-18 (“appellations d’origine”) ; the articles L 121-1 to L 121-15 (misleading advertising) ; L 213-1 and L 213-2 (deceit) ; L 112-1 to L 112-6, R 112-7 and R 112-9 (labelling of food products) of the Code de la consommation.
A.1.3. What is your national jurisprudence about non geographical names which would have been requested to be registered as protected OLPs?	No judgements. One cheese whose name is a non geographical one, called “Pélardon”, has been registered from France as a PDO in 2001 (the territorial subdivisions concerned are : Aude, Gard, Hérault, Lozère and Tarn).
A.1.4. What are the procedures for the definition of the product characteristics regulation and the area of production for protected OLPs in your country? Mention the consultation and decisions bodies which are involved in the procedures.	- création d’un syndicat de défense qui constitue un dossier de demande -l’INAO nomme une commission d’enquête -le MAP accepte la nouvelle AOC -publication d’un décret au journal officiel See “The Institutional Aspects of the PDO-PGI Legislation in France”, by B. Lassaut, page 22 to 32 (figures 4 to 12).
A.1.5. In your country, how would it be decided that a geographical name is a generic one? Mention the jurisprudence, the procedure and the decision bodies.	There is no pre-established list of generic names. The administrative decision to recognise, case by case, a geographical name as generic is an “arrêté d’homologation” of the “cahier des charges” (linked to a submit for a PGI or a PDO) or of a “règlement d’application” (AOC), that can be reviewed by the supreme administrative court called “Conseil d’Etat”, by application of the Code rural (cf. for example CE, 15/10/1999, Sté Jean d’Auberval et autres : PGI “Rillettes du Mans”), or by the supreme civil court “Cour de cassation” regarding to the application of the Code de la consommation (cf. Cass. Crim, 22/05/2002 : AOC

	“Camembert de Normandie” (now registered as a PDO)).
2. Institutional frame	
A.2.1. Which are in your country the public and private institutions involved in the application of EC Regulation 2081/92?	INAO (art L 641- 5 ; 646-1 code rural) CNCL COFRAC, Organismes certificateurs agréés See the above mentioned diagram (Décret n°96-193 of 12 March 1996 modified) regarding the french institutions. Public institutions : Department for Agriculture, Fisheries, Food and Rural Affairs, Department for Economy, Finances and Industry affairs + INAO + CNLC (with sections) + Conseil d’Etat. Private institutions : inspection bodies + applicant groups of producers + certified associations for consumer protection.
A.2.2 Which are in your country the public and private institutions involved in the application of legal systems of protection for OLPs other than EC Regulation 2081/92?	Cas des CCP : DPEI , Afnor, CEN, ISO , + organismes certificateurs + les organismes mentionnés ci-dessous concernés par le domaine viti-vinicole Public institutions : mainly DGCCRF (see the article L 215-1 of the Code de la consommation), DSV and the supreme Cour de cassation. Private institutions : Department for Agriculture, Fisheries, Food and Rural Affairs, certified associations for consumer protection (L 411-1 and following of the Code), INAO regarding to wines and spirits.
A.2.3. Which are the different regional levels for the application of legal systems of protection for OLPs, and which are the institutions linking these different levels?	INAO : 4 comités nationaux : vins, laits autres produits, IGP ; 26 comités régionaux No regional levels since France is not a federal but a devolved (the power of decision held by the highest authorities is transferred to authorities less raised in the internal hierarchy of the institution) and decentralized (the attributions of the state are transferred under control to legally different and self-governing – mainly territorial – institutions) state.
A.2.4 What is the expected evolution for the institutional frame in your country?	Meilleures coordinations locales entre les syndicats d’un même secteur, avec les institutions de développement local ; meilleurs contrôles du respect des cahiers des charges No expected evolution
3. Relations between OLPs and trademarks	
A.3.1. What are the legal provisions concerning the indication of origin and the trademark with geographical indication in your country?	Article L711-3 et 4 et arti L721-1 du code de la propriété industrielle See the articles L 711-1, L 711-2 (trademarks), L 715-1 to L 715-3 (collective trademarks) and L 721-1 (“appellations d’origine”) of the Code de la propriété intellectuelle.
A.3.2. Could you give some cases of jurisprudence in your country concerning the conflicts between geographical indications (protected and non protected ones) and trademarks?	Enregistrement de la marque “ les cadets d’Aquitaine porte des vins du Bergeracois” jurisprudence du 13 février 2001 Transformation sous forme râpé par une entreprise française en France du fromage OAP « grana padano » hors du lieu de production décembre 2001 pourvoi n°98-17761 Marque « flûte d’Alsace » et les vins AOC d’Alsace pourvoi n°98-87547 octobre 1998 See the famous cases about “Champagne” : TGI Paris 28/10/1993 and CA Paris 15/12/1993 (fragrance); and TGI Paris 5/03/1993 (cigarettes).

	See also : “Bethmale” CA Paris 4/05/1993 (cheese); “Coutellerie de Savoie” CA Paris 6/02/1986 (knives); “Moutarde de Meaux” CA Versailles 19/05/1987 (condiment); “Château Yquem” and “Château Margaux” TGI Bordeaux 3/06/1980 (cigars).
A.3.3. Could you give some cases in your country concerning the conflicts between previously registered trademarks and registered PDOs and PGIs?	Cf. Bel'Morteau : PGI requested in France, to be registered.
A.3.4. What are the procedures to provide protection to geographical indications of other countries which do not have a sui generis system of protection?	See the bilateral conventions signed between France and those states.
4. Monitoring and certification for OLPs	
A.4.1. How is the EC Regulation 2081/91 implemented in your country concerning the monitoring and certification of the PDOs and PGIs?	Implication de l'INAO PDO : DGCCRF + INAO (article L 641-6 of the Code rural) ; PGI : inspection bodies : see the articles L 642-2 and L 643-5 of the Code rural, with their provisions for application.
A.4.2. Are the monitoring and certification of OLPs legally required for systems of protection out of EC Regulation 2081/92 in your country?	Yes, for wines and spirits (see above INAO). No for other products.
A.4.3. Are the monitoring and certification of OLPs made by public or private institutions?	PDO : public institutions ; PGI : public institutions and 26 (private) inspection bodies (“cahiers des charges”).
A.4.4. Which is the role of the public institutions in the definition of the plans for monitoring and non conformities to the product requirements?	Le tribunal de Grande instance peut être saisi après constat de huissier pour contrefaçon conformément aux lois L615-5, L713-2 et L713-3 du CPI PDO : INAO ; PGI : control plans duly examined by CNLC (section for certification of the inspection bodies) and certified by a ministerial decision called “arrêté d’homologation”
A.4.5. What are the means of enforcement in relation with the monitoring and certification (financial sanctions, monitoring of the certification body...)?	PDO : withdrawal or suspension by CNLC of the enabling approval granted to the inspection body for the food product(s) concerned (with audit for annual renewal). PGI : INAO + Conseil d’Etat.
A.4.6. Are there public subsidies for monitoring and certification of OLPs in your country?	PDO : public funds for INAO. PGI : no, it belongs to the competitive trade
5. Action against misleading of the consumers	
A.5.1. What are the legal bases for preventing misleading geographical indications in your country?	See the articles L 121-1 to L 121-15 (misleading advertising) ; L 213-1 and L 213-2 (deceit) ; L 112-1 to L 112-6, R 112-7 and R 112-9 (labelling of food products) of the Code de la consommation.

A.5.2. Are the infringements in relation to geographical indications treated ex officio or only on the request of an interested party?	Both (complaint as well as self public enquiry by DGCCRF)
A.5.3. What are the institutions which are in charge of the repression of the misleading of the consumers? What are their means, and what are the sanctions?	DGCCRF Saisie, fermeture, amende, emprisonnement The institutions in charge of are the repressive jurisdictions : See the articles L 121-3 to L 121-6, L 214-2 ("contraventions"), L 213-1, L 213-2 and L 213-6 ("délits") of the Code de la consommation.

B. Policies concerning OLPs production-marketing systems	
1. Competition and antitrust legislation	
B.1.1. In your country, what is the national regulation regarding antitrust law ? When and how was the European regulation adapted? Mention the national texts and the authorities and legal proceedings (at the regional and national level).	See the articles L 420-1 (article 81 CE) and L 420-2 (article 82 CE) of the Code de commerce. Exemptions are : - L 420-4 2° of the Code de commerce (article 81 § 3 CE) ; - "Accords interprofessionnels" (L 631) : L 632-2 II of the Code rural. (For example, see the decisions of the Conseil de la concurrence : volailles ; Cantal ?, CNPP APMIS).
B.1.2. Are there inquiries of your antitrust law authorities that concern(ed) an OLP supply chain ? a) Which was the reason for inquiry : fixing of global quantities, fixing of indicative prices on intermediary markets, attribution of production quotas to enterprises, disagreement on the relevant market size ...? b) Which were the conclusions of the inquiry (please send documents such as law papers or trial decisions)? c) Did this recommendation or decision lead to a modification of the national law rules ?	
B.1.3. If there was no inquiry in your country, why ? What is the philosophy of your national antitrust law authorities regarding the OLP supply chains ?	Inquiries are made in France as the case may be.
2. Collective institutions of the supply chain	
<i>We call "interprofession" a multi-professional institution that has no commercial statute and whose mission is to co-ordinate the market operations between at least two levels of a given food product supply chain. An "interprofession" is generally an association that is composed of two bodies or more (such as producers, processors, traders, sometimes retailers...), which may negotiate and make decisions in order to improve the collective efficiency of the supply chain. (In France and Switzerland : interprofessions ; in Italy : consorzio ; in Germany : Branchenorganisationen).</i>	
B.2.1. Is this kind of institution at work in your country? Which are its national legal basis (texts) ?	Loi du 10 juillet 1975 art L632-1, -2, -4.8, -6 du code rural LOA 1999 chapitre III articles 67-68-69-70
B.2.2. Do they concern a specific product (such	Specific product or specific quality and OLP article 611-1 du code rural loa 99 chapitre IV article 72

as milk, fruits, meat...), specific geographic areas (regional, national), specific quality labels, specific OLP products ? (please if possible send a list of these multi-professional entities)	
B.2.3. Which are their possible missions : marketing studies, strategic analysis, promotion, quality control, negotiation of contract templates, fixing of indicative prices on intermediary markets within the supply chain, fixing of global quantities, attribution of production quotas to processing units...?	Toutes ces fonctions
B.2.4. What are the punitive sanctions, when a decision is not respected by a member ?	Variable : recours légal si les décisions prises par l'interprofession ont été adoptées par un décret d'application du code de la consommation par exemple Sinon : toutes les interprofessions doivent avoir une instance de conciliation pour les litiges
B.2.5. Is the extension of agreements to non-members authorised and supported par the State ? [can a decision taken by the interprofession become compulsory for non-members?].	
B.2.6. Does the State control the institutions (assessment of the effectiveness, control of an eventual competencies violation, accounting control)?	
B.2.7. What are the financial resources of the interprofessions (subsidies from the state, contribution from the members, etc)?	
B.2.8. Do you think that these multi-professional entities are going to develop or to decline in your country? Why (benefits and limits)?	
3. Public support to OLP supply chain management	
B.3.1. Do you have programs in your country to support the leaders training and to improve the quality of management of OLPs supply chains ? <i>Training programs for leaders</i> <i>Marketing, Business, Quality control, Management, Social leadership, Negotiation</i> <i>Communication tools within the supply chain</i> <i>Strategic analysis and Quality control operations</i> <i>Programs at local regional or national scale</i>	

C. Policies concerning the links between OLPs and rural development

1. What public subsidies can the OLPs sectors/producers get, as public support for rural/local development ?

# para-public institutions : public control institutions for PDO-PGI, public established interprofessional bodies, partly public funding NGOs, etc.				
	Local institutions	Regional institutions	National institutions	Para-public institutions (all scale)#
C.1.1. Financial subsidies for : investments - Production (enterprises equipment– buildings) - Transformation / elaboration (enterprises equipment– buildings) - Trade (enterprises equipment– buildings– transportation) - Communication (internal / external)	Financement ponctuel exemple aide syndicat de défense, pour une manifestation culturelle	Conseil Régional Contrat de plan Etat – Région (en cours : 2000-2006) Irqualim (midi-Pyrénées)	Gouvernement (loi de finance) + contrat plan Etat- Région INAO CNCL, SOPEXA	Interprofessions agricoles
C.1.2. Financial subsidies : - How are they distributed? -Working of the professional structures: human resources, marketing operations		Toutes ces fonctions	Toutes ces fonctions	
C.1.3. Information : - Legal aspects (laws on trademarks <regional, collective, certification ones>, laws on PDO-PGI, ...) Means : easiness of access to the information (“guichet unique” ?...)				
C.1.4. Training programs for people involved in the supply chain (marketing, management, economics, ...)				

C.1.5. Administration support (application files for registration of PDO-PGI, for grants...)				
C.1.6. Technical support (public monitoring and control against misleading of the consumers, production technical research, scientific popularization, ...)			Manifestation annuelle : « Assises nationales de l'alimentation ??? » Création de l'AFSSA	
C.1.7. Political support (support to application files for registration of PDO-PGI, for grants...)				
C.1.8. Material support (equipment, land,...)				
C.1.9. Legal incentives (regulations for the use of public goods, ...)				
2. Integration and co-ordination of public policies				
C.2.1. What are the public policies aiming at creating or strengthening the links between OLPs and other economic activities?; normative, financial, promotional, technical supports...	Financial, promotional, technical supports but not normative procedures			
C.2.2. Analysis of innovative projects based on OLPs within the frame of UE LEADER program	Non concerné			
C.2.3. What are the public policies aiming at facilitating the development of OLPs production in small and craft firms (information, training...)?	No specific policy			
C.2.4. What are the institutional tools aiming at integrating and co-ordinating different policy tools at a local scale (e.g. Contrats territoriaux d'Exploitation – CTE – in France, Agri-food Quality Districts and Rural Districts in Italy...)?	CTE : loi d'orientation (LOA) titre 1er article 4-5-6-7 1999 Article L311-3-4 code rural			
C.2.5. Role of OLPs related interventions within the frame of the EC Regulation 1257/99 (rural development): regional plans, priorities, specific means, etc.)	CTE (PDRN)			

D. Policies concerning the relations between OLPs and consumers	
1. PDO and PGI promotion	
D.1.1. In your country and language, which term is used to indicate on a package or a promotional advertising that a product is a PDO product?	« Appellation d'Origine Contrôlée » uniquement
D.1.2. In your country and language, which term is used to indicate on a package or a promotional advertising that a product is a PGI product?	La mention "Indication Géographique Protégée " est rarement utilisée. Selon la réglementation, les produits sous IGP doivent être sous "label rouge" ou "certification de conformité". En fait, le logo français "label rouge" est bien plus connu et utilisé que la mention "Indication Géographique Protégée ". A ma connaissance, seuls 2 produits inscrivent "Indication Géographique Protégée " sur leur étiquette : le <i>Foie gras du Sud ouest</i> et le <i>jambon de Bayonne</i> .
D.1.3. Is there any generic promotion of the PDO and/or PGI label in your country? <ul style="list-style-type: none"> • When yes: <ul style="list-style-type: none"> - Which kind(s) of organisation(s) is/are in charge of this generic promotion? - With which kind of financial means? - What is the basic strategy to communicate on the PDO and/or PGI label (a promotion focused on the label, a promotion on the AOC label in link with some AOC products,)? • When no: <ul style="list-style-type: none"> - Could a generic promotion on PDO and/or PGI label be financially supported by public funds? With which kind of money? - Do you think that such a generic promotion would be necessary? 	Il existe des Communications sur les 4 Signes Officiels de Qualité français : AOC, Label Rouge, Certification de conformité et Agriculture Biologique. <ul style="list-style-type: none"> - Ce sont des brochures de présentation destinées plus aux professionnels qu'au grand public (ou alors un grand-public motivé : salon de l'agriculture) - Certaines sont publiées par le Ministère de l'Agriculture (niveau national) mais la plupart sont financées par les régions et les organismes de développement agricoles (chambres régionales d'Agriculture). - La Stratégie des communications régionales est centrée sur le lien entre les labels (AOC, Label Rouge, Certificat, AB) et les produits de la région (viande, volailles, vins...)
D.1.4. Do the PDO-PGI supply chains have any public financial resources to promote their denomination (as a collective product and not as private brand)? <ul style="list-style-type: none"> • When yes : <ul style="list-style-type: none"> - With which kind of public means, and under which conditions? • When no : <ul style="list-style-type: none"> - Do you think that such a support should be 	Les campagnes de communication sur les produits AOC s'effectuent par l'intermédiaire des Comités Interprofessionnels et/ou des Régions : <i>Association des Fromages d'Auvergne, CIVB pour les vins de Bordeaux, CIVAS pour les vins d'Anjou Saumur, CIGC pour le Comté...</i> Elles reçoivent le soutien financier de la Région concernée. Un Cofinancement est possible par l'Europe (FEOGA), le Ministère de l'Agriculture et de la Pêche (Exemple : brochure "Dégustez le Comté", juin 1998)

possible?	
D.1.5. In general, do the supply chains promote their protected denomination with reference to the PDO label (messages linked with the PDO label such as “this product is protected by a official label, a PDO.....)?	Non, je ne pense pas
D.1.6. In your country, do the supply chains communicate within their supply chains to make the PDO label well known among all the producers? Can the communication within a supply chain be supported by public funds?	Non, je ne pense pas. La communication interne aux filières AOC se fait de manière informelle par l’intermédiaire de réunions de travail, de courriers, de salons...
2. Other OLPs promotion	
Precise to which OLP you will refer (here after called regional label or product)	Les “Labels régionaux” en France n'existent plus officiellement. Les communications régionales regroupent les différentes AOC et IGP d'une région.
D.2.1. Is there any generic promotion of regional labels in your country? <ul style="list-style-type: none"> • When yes: <ul style="list-style-type: none"> - Which kind(s) of organisation(s) is/are in charge of this generic promotion? - With which kind of financial means? - What is the basic strategy to communicate on this regional label (a promotion focused on the label, a promotion on the AOC label in link with some regional products,)? • When no : <ul style="list-style-type: none"> - Could a generic promotion on a regional label be financially supported by public funds? With which kind of money? - Do you think that such a generic promotion would be necessary? 	<ul style="list-style-type: none"> • Nous prenons ici l'exemple de la Communication sur les produits de qualité de la région Midi-Pyrénées comprenant : AOC/IAOP, Label Rouge/IGP, Label Rouge, CCP/IGP, CCP, AB, ancien label régional Midi Pyrénées (non reconnu officiellement) : <ul style="list-style-type: none"> - Réalisation par l'Institut Régional de la Qualité Agro-alimentaire de Midi-Pyrénées (IRQUALIM) - Financement principal : Conseil régional - Cofinancement par l'Europe (FEOGA) - Stratégie : les différents produits de la région
D.2.2. Do the regional organisation in charge of the regional label have any public financial resources to promote their denomination (as a collective product and not as private brand)? <ul style="list-style-type: none"> • When yes : <ul style="list-style-type: none"> - With which kind public means, and under which 	<ul style="list-style-type: none"> - Europe : Fonds Européen d'Orientation et de Garantie Agricole (FEOGA) - National : Ministère de l'Agriculture et de la Pêche

conditions? • When no : - Do you think that such a support should be possible?				
3. Consumer survey				
Who does the survey ?	Food survey in general	PDO-PGI labels surveys	PDO-PGI products surveys	Other OLP survey
<i>State</i>	Ministère de l'Agriculture (DGAL, DPEI), de l'Economie (DGCCRF), de l'Industrie	Idem + INAO	Idem + INAO	
<i>Public funds</i>	Programme AQS...			
<i>Region</i>	DRAF, Comités de Développement Régionaux	DRAF, Comités de Développement Régionaux	DRAF, Comités de Développement Régionaux	
Types of financial resources?	Fonds régionaux...	Fonds régionaux...	Fonds régionaux...	
<i>Research institutes</i>	INRA, Ecoles, Universités, GIS (Région +INRA + INAO)	INRA, Ecoles, Universités, GIS (Région +INRA + INAO)	INRA, Ecoles, Universités, GIS (Région +INRA + INAO)	
Types of financial resources?	Fonds propres, Appels d'offre nationaux et régionaux	Fonds propres, Appels d'offre nationaux et régionaux	Fonds propres, Appels d'offre nationaux et régionaux	
<i>Private organisations</i>	Organismes de développement (Chambre d'Agriculture), Centres Techniques, Associations d'interface, Cabinets d'études	Organismes de développement (Chambre d'Agriculture), Centres Techniques, Associations d'interface, Cabinets d'études	Organismes de développement (Chambre d'Agriculture), Centres Techniques, Associations d'interface, Cabinets d'études	
Types of financial resources?	Appels d'offre nationaux et régionaux, prestations privées	Appels d'offre nationaux et régionaux, prestations privées	Appels d'offre nationaux et régionaux, prestations privées	
<i>Supply chains</i>	Centres Techniques et Syndicats Interprofessionnels	Centres Techniques et Syndicats Interprofessionnels	Comités Interprofessionnels, Syndicats de défense AOC	
Types of financial resources?	Adhérents, Divers	Adhérents, Divers	Adhérents, FEOGA, Région	
<i>Other</i>				
Types of financial resources?				