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Decision-making in the council of the European Union. The role of committees.

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9 Agriculture

The Agricultural policy field stands out for at least two reasons. First, Agriculture is one of the oldest policy fields regulated at the EU level. National approaches were integrated into the Common Agricultural Policy (CAP) already in the late 1950s and early 1960s. Second, the CAP was the largest expenditure item in the EU budget for a long time and is still one of the main spending areas even after recent reforms. Thus, decision-making on Agricultural policy is a major arena for explicitly distributive conflicts. Third, Agriculture is the internal policy area most intensely affected by European regulation (Nugent 2006: 388).

The intensity of European regulation in the field of Agriculture is also reflected in the organisation and the frequency of meetings of Council bodies in this area. Agriculture ministers meet almost every month. In addition, agriculture ministers have their own exclusive preparatory body, the SCA. Member States established the SCA in 1960 to relieve Coreper from the increasing workload generated by the establishment of the CAP. The SCA meets weekly and consists of senior officials from national Agriculture ministries, usually posted temporarily to Member States' permanent representations. Besides Coreper, the SCA is the only preparatory body with a prerogative to put items directly on the agenda of ministers. However, the SCA does not have the exclusive right to prepare the meetings of Agriculture ministers. Coreper I prepares all agenda items for Agriculture ministers related to food safety and animal welfare issues. The working party system in Agriculture is also somewhat particular. With over 100 groups, the Agriculture Council formation includes by far the most working parties (see Table 2.1). Not surprisingly, most of these working parties are highly specialised. Many of them deal only with a specific group of agricultural products. The Agriculture working parties meet only irregularly. The groups usually consist of officials from national Agriculture ministries travelling to Brussels especially for the meetings.

In the remainder of this chapter, I describe and analyse the process leading to the adoption of two Council Regulations in the field of Agriculture. The first Regulation amends the existing European provisions on the protection of geographical indications for agricultural products. The second Regulation amends aspects of the organisation of the market in raw tobacco and sets new premiums and guarantee-

thresholds for the subsidisation of raw tobacco production. As is typical for decision-making in Agriculture, the Council passed the acts through the consultation procedure. The Council decision-rule allowed for the adoption of the proposals by a qualified majority of Member States. In the case of the Leaf tobacco Regulation, the Working Party on Tobacco discussed the dossier. In the case of the Geographical Indications Regulation, the Working Party on Foodstuff Quality (Geographical Indications and Designations of Origin) was responsible.

One reason for the selection of the Geographical Indications Regulation was the absence of any minister involvement despite a moderately high salience level. The case constituted a good comparison case for the Leaf Tobacco Regulation, which exhibited a rather low value on the salience variable but was nevertheless decided by ministers. Unfortunately, the case study research revealed that ministers in fact also discussed the Geographical Indications Regulation. However, ministers did not make any specific decisions. Thus, actual ministerial influence was minimal. Committee members still made the final Council decision on all issues. In addition, comparisons can still be made at the level of individual issues within a proposal, even if the lack of variance does not allow comparisons at the level of proposals as a whole. Ministers discussed only a subset of conflictual points contained in a proposal. Thus, we can still investigate why ministers discussed certain conflictual issues while others were completely handled at lower Council levels. The lack of variation of the dependent variable at the proposal level is unfortunate but does not completely exclude an examination of possible explanations for committee decision-making in these cases.

9.1 Geographical Indications Regulation

9.1.1 Background and proposal content

The proposal amends a Regulation on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, which the Council had adopted in the year 1992¹. The original Regulation established legally binding provisions for the protection of geographical names of agricultural products. The new rules harmonised the protection of geographical names for all food products other

¹ Proposal for a Council Regulation amending Regulation 2081/92/EEC of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, 15 March 2002, COM/2002/139.

than wines and spirits. Wine and spirits were already covered by other Community legislation. The Regulation gave producers and processors the opportunity to register geographical names at the Community level. Under the provisions of the Regulation, only undertakings that are actually active in the area carrying a registered name have the right to use the name for their products. A major aim of the Regulation is to protect producers and consumers from practices and imitations that misuse geographical names².

At the time, several cases pending before the European Court of Justice underlined the importance of these provisions for producers of agricultural products. Member States as well as individual companies contested the exclusive right of foreign companies to use certain product names. In one instance, Denmark sued the Commission because the Commission granted Greece an exclusive right to produce Feta cheese³. In an earlier ruling in 1999, the Court had decided in favour of Denmark, but the Commission had sidestepped this decision by introducing new implementing legislation through the Comitology procedure⁴. In another case, Italian companies disputed the right of a British supermarket chain to slice and package Parma ham outside the Italian Parma region and the right of a French company to grate imported Parmesan cheese before selling it on the French market. The issue of protecting geographical indications also involved an international dimension. At the same time the Council discussed the new proposal amending the Geographical Indications Regulation, the EU was promoting the worldwide protection of geographical product names through the establishment of a global registry in the framework of the Trade-Related International Property Rights (TRIPS) agreement of the World Trade Organisation (WTO)⁵. Some less developed Asian and African

² Commission (2002): Proposal for a Council Regulation amending Regulation 2081/92/EEC of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, 15 March 2002, COM/2002/139, pp. 2-4.

³ Smith, Jeremy (2003): EU's top court to rule May 20 on Parma food cases. 30 April 2003, Reuters News.

⁴ European Report (2002): Agriculture: One deal on table for final Spanish Presidency Farm Council. 26 June 2002; Dow Jones International News (2002): Denmark sues EU Commission over Greek Feta cheese ruling. 23 December 2002.

⁵ European Report (2002); EU/WTO: Union bids to extend trademark protection. 26 June 2002.

countries co-sponsored such a registry⁶, but especially the United States and Australia opposed the protection of geographical indications. The United States and Australia are both large export countries of agricultural products. They challenged the EU Regulation on grounds that it discriminated against non-EU producers and therefore violated WTO rules⁷. The new Commission proposal included some amendments designed to alleviate such concerns.

The proposal amending the Geographical Indications Regulation did not challenge the general goal and approach of the original Regulation, but nevertheless suggested significant changes to the content of the legislation. More specifically, the Commission proposed the following changes to the original text of the Regulation⁸:

- The inclusion of wine vinegar in the scope of the Regulation.
- The exclusion of mineral and spring waters from the scope of the Regulation and the removal of already registered names related to such products from the register.
- The adoption of provisions on how to deal with identical names that designate different regions or places (so-called homonyms).
- The extension of the procedure regulating objections to applications for product name registrations to nationals of all WTO member countries.
- The adoption of provisions allowing for and regulating the cancellation of the product name registration by the original applicant.
- The extension of the Community application procedure for registering product names to products originating from non-EU countries.
- The abolishment of the simplified procedure used to grant Community status to names already protected in Member States.

⁶ Food and Drink Weekly (2002): EU moves to protect geographic indications of food products. 1 July 2002.

⁷ Buck, Tobias, and Guy de Jonquieres (2003): Name-calling over Europe's delicacies. 5 May 2003, Financial Times.

⁸ Commission (2002): Proposal for a Council Regulation amending Regulation 2081/92/EEC of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs. 15 March 2002, COM/2002/139.

- Change of the version of standard EN 45011 applicable to inspection bodies from the specific version mentioned in the original Regulation to a general reference to the ‘latest’ version of the standard.

Among the proposed changes, the only amendment that did not stir controversy among Member States during Council negotiations was the inclusion of wine vinegar in the scope of the Regulation. Neither the original Regulation nor the corresponding wine and spirits legislation covered wine vinegar. Thus, the inclusion of this product in the scope of the Regulation merely filled a gap in the existing product name protection provisions. Although several of the remaining amendments seem to be of a rather technical nature as well, all of them raised objections by one or more Member States during Council negotiations.

9.1.2 Negotiation process

The adoption process of the proposal amending the Geographical Indications Regulation took well over a year (see Table 9.1). The long duration of the process is quite remarkable, given the relatively limited scope of the proposal, the possibility to adopt the proposal by a qualified majority in the Council and the lack of veto power by the Parliament. Furthermore, the duration of the actual negotiation process, as measured from the day of the first Council meeting in which the dossier was discussed to the day on which the Council de facto reached an agreement, overlaps almost completely with the formal adoption process. Negotiations in the Council started just ten days after the transmission of the proposal by the Commission and the Council formally adopted the law just a week after the informal agreement. Further below, other case descriptions show that this close correspondence between the adoption and the actual negotiation process cannot be taken for granted.

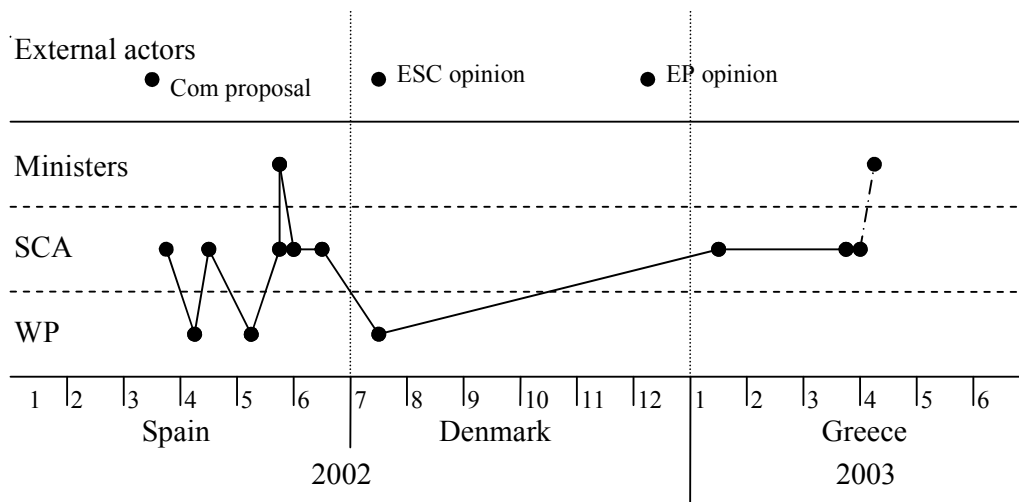
Table 9.1 Geographical Indications Regulation: Main decision-making events

<i>Date</i>	<i>Collective actor</i>	<i>Event</i>
15-03-2002	Commission	Adoption of proposal
15-03-2002	Commission	Transmission to Council and EP
25-03-2002	SCA	Decision about procedure
09-04-2002	WP	First reading of proposal
15-04-2002	SCA	Discussion of WP report
07-05-2002	WP	Discussion of WP report
21-05-2002	SCA	Discussion of WP report
27-05-2002	Agriculture Council (B-item)	Policy debate
31-05-2002	SCA	Discussion of SCA report
17-06-2002	SCA	Discussion of SCA report and Presidency proposal
18-07-2002	WP	Discussion of SCA report and Presidency proposal
05-12-2002	EP	Adoption of opinion
05-12-2002	Commission	Partial agreement on EP amendments
13-01-2003	SCA	Discussion of WP report
25-03-2003	SCA	Discussion of WP report
31-03-2003	SCA	Discussion of SCA report, de facto adoption of Regulation
08-04-2003	Agriculture and Fisheries Council (A-item)	Formal adoption of Regulation

Notes: EP = European Parliament, SCA = Special Committee on Agriculture, WP = Working party.

In Figure 9.1, I illustrate the involvement of different Council bodies over time. The SCA conducted a large part of the negotiations. After the reception of the proposal, the SCA decided about how and by which working party the dossier will be handled. Subsequently, the SCA met seven times to discuss the dossier. The Working Party on Foodstuff Quality (Geographical Indications and Designations of Origin) discussed the proposal three times, too. After each meeting, the working party reported back to the SCA about the progress made. The ministers discussed the proposal only once in the form of a general policy debate. But SCA members eventually reached the actual agreement. The Agriculture ministers then formally adopted the dossier through the A-point procedure.

Figure 9.1 Geographical Indications Regulation: Negotiation process



Note: SCA = Special Committee on Agriculture, WP = Working Party.

Source: Data based on an analysis of Council documents.

The Commission adopted and transferred the proposal to the EP and the Council on 15 March 2003. Ten days later the SCA decided that the Working Party on Geographical Indications should first examine the dossier. The working party had its first reading on 9 April. Although the general reactions of delegations to the proposal were positive, the working party members identified a number of problematic issues during the meeting. One major point of controversy concerned the products covered by the Regulation. Mainly for practical reasons, the Commission proposed to exclude mineral and spring waters from the scope of the Regulation. Mineral and spring waters already registered would lose their protected status after a transition period of five years. The Commission argued that it was overwhelmed with applications for registering such products but that, at the same time, most names in question were not suitable for registration. In addition, the Commission claimed that other Community legislation already protected these products⁹. Germany doubted that other existing legislation adequately protected mineral and spring waters and strongly opposed their exclusion from the scope of the Regulation¹⁰. A large part of the mineral and spring

⁹ Commission (2002): Proposal for a Council Regulation amending Regulation 2081/92/EEC of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs. 15 March 2002, COM/2002/139, p. 2.

¹⁰ Council (2002): Report of the meeting on 9 April 2002 of the Working Party on Foodstuff Quality (Geographical Indications and Designations of Origin). 15 April 2002, 7779/02, p. 2.

waters registered under the existing provision were of German origin¹¹. Thus, the exclusion of these products would have affected mostly German producers. To support specific regional industries, the French and Portuguese delegations felt that various additional products should be covered by the legislation. The French delegation asked for the inclusion of mustard paste and pasta and the Portuguese for the inclusion of wool fibres and wicker. Both countries insisted on the inclusion of sea salt. Similarly, Italy demanded that spirituous beverages should be covered.

Another contested point concerned the co-existence of protected geographical names and identical names traditionally in use but not covered by the scope of the Regulation¹². The Commission proposal outlined several conditions to be met for the co-existence of a protected name and an identical non-registered name. These conditions formed the basis for the Commission decision to allow the use of the unregistered name. Even if the unregistered traditional name satisfied all the conditions for co-existence, the proposal suggested limiting the use of the unregistered name to at most 15 years. Member States questioned several aspects of these provisions. Delegations were most unhappy about the maximum time period for co-existence. Eight delegations (AT, BE, DE, IE, LU, NL, SE, UK) judged the 15 year limit as too short. But some delegations (AT, BE, DE, IE) also considered the criteria for co-existence to be too strict. Particularly the 25 year period of legal use of the unregistered name prior to the entry into force of the original Regulation in 1992 sparked opposition.

In principle, the Member States welcomed the introduction of provisions allowing the cancellation of the registration of names. However, the working party members agreed to some changes to clarify the obligation of the country requesting the cancellation. The change resulted in a clear requirement for Member States to evaluate applications for the cancellation of registrations before transmitting the applications to the Commission. In this context, Germany called for the inclusion of Community wide standards for evaluating applications. The Commission and several delegations (BE, FR, NL, SE) argued against the need for such criteria. Another contested aspect concerned the entities and persons permitted to apply for the

¹¹ European Report (2003): Food products: Designation of origin deal looming up. 11 January 2003.

¹² Council (2002): Report on the meeting on 9 April 2002 of the Working Party on Foodstuff Quality (Geographical Indications and Designations of Origin), 10 April 2002, 7779/02, p. 4.

cancellation of registered names. Greece, Italy, and Spain argued that, given the time that could elapse between the original application and a possible need to cancel the registration, any concerned person and not only the original applicant should be permitted to apply for the cancellation of a registered name. The United Kingdom suggested that the Member State concerned should also have the possibility to apply on its own initiative.

Most Member States accepted the extension of the provisions of the Regulation to products and residents of WTO member countries. Only Denmark opposed the inclusion of these amendments, preferring to await the outcome of the ongoing WTO negotiations on the TRIPS agreement before including such provisions in Community legislation. Denmark was particularly concerned about granting third countries the right to object to the registration of a name in the EU¹³. Denmark also doubted the sufficiency of Article 36 of the Treaty establishing the European Community (TEC) as a legal base for the proposal. As the extension of the Regulation to WTO member countries is an obligation resulting from international agreements, Denmark proposed a Common Commercial Policy treaty article (Article 133 TEC) as an additional legal base.

At the end of the first working party meeting, the Spanish Presidency concluded that the proposal required more detailed technical examination at the working party level. In the meantime, the Presidency would present a progress report to the SCA¹⁴. The SCA discussed the progress report of the working party at a meeting six days later on 15 April. With new instructions given by the SCA, the working party resumed its discussion of the dossier on 7 May. The Presidency made a proposal to redraft the provisions relating to homonyms to clarify their practical implementation.

During the course of the meeting, delegations agreed that not only the original applicant, but any legal or natural person with a legitimate interest should be able to apply for the cancellation of a registration. The UK delegation had requested that states should also be able to apply for cancellation on their own initiative, but other working party members did not support this suggestion. In the first meeting of the

¹³ European Report (2002): Farm Council: Decision on potato starch likely in short meeting on May 27. 25 May 2002.

¹⁴ Council (2002): Report of the meeting on 9 April 2002 of the Working Party on Foodstuff Quality (Geographical Indications and Designations of Origin), 10 April 2002, 7779/02, p. 7.

working party, the German delegation had asked for common criteria for Member States to evaluate applications for the cancellation of registrations. The German request had been opposed by several delegations as well as the Commission and was not repeated in subsequent sessions of the working party. The working party meeting did not result in much progress on the remaining issues. Thus, Member States still disagreed on the scope of the Regulation, the rules governing the co-existence of identical names, the extension of the provisions to third countries and the legal base.

On 21 May, the SCA dealt with the proposal for the third time. By that time, Italy had dropped its demand for the inclusion of spirituous beverages in the scope of the Regulation. Regarding the other aspects related to the scope of the Regulation, Germany still fought the exclusion of mineral and spring waters. The German delegation stressed that the transition period of five years was far too short. The Commission stood by its initial position, but signalled that it was willing to compromise on the length of the transition period¹⁵. The Commission opposed the request of France and Portugal to include sea salt in the scope of the Regulation. The Commission argued that sea salt was not an agricultural product or foodstuff. The SCA agreed to consult the Council's legal service on the question of whether the legal base of the proposal would allow the inclusion of sea salt in the scope of the legislation. However, the Commission promised to consider the demands by Portugal and France to include wool fibre and wicker as well as mustard paste and pasta in the scope of the Regulation.

Again, the SCA made no progress on the rules governing the co-existence of registered and non-registered names. Delegations simply reiterated their earlier positions. The Commission defended its strict criteria for the co-existence of identical registered and non-registered names by pointing out that the right to the exclusive use of a registered name was the basic principle underlying the Regulation and that this right should not be undermined. The French delegation supported the Commission's position. Regarding the extension of the provisions of the original Regulation to third countries, the Commission gave an extensive explanation of the impact of the TRIPS agreement on the Regulation. This explanation convinced all delegations except Denmark about the benefits of adopting the proposal amending the Geographical

¹⁵ Council (2002): Outcome of proceedings of the meeting on 21 May 2002 of the Special Committee on Agriculture. 21 May 2002, 8906/02, p. 2.

Indications Regulation. Denmark insisted that it was preferable to wait for the outcome of the TRIPS negotiations before amending Community legislation. However, Denmark did not reiterate its related demand for an additional Common Commercial Policy treaty base. The UK repeated its request to allow Member States to apply for the cancellation of a registered name on their own initiative, but still none of the other delegations supported the request. The SCA provided a report on the proceedings of negotiations in the preparatory bodies for the Agriculture Council on 27 May¹⁶. The ministers were pleased with the reported progress and asked the SCA “to press on with its work”¹⁷ so that the matter could be concluded after the EP submitted its opinion. The ministers did not give any specific impetus or direction to the negotiations.

Following the meeting of ministers on 27 May, the SCA discussed the proposal again on 31 May and 17 June, before referring the proposal back to the working party. The next working party meeting took place on 18 July and was the only meeting chaired by the Danish Presidency. By that time, several delegations had dropped objections to certain provisions. For example, the United Kingdom did not ask for the possibility of Member States applying for the cancellation of registration anymore. After receiving the opinion of the Council’s legal service, Denmark also no longer insisted on Article 133 as an additional legal base.

Regarding the remaining points, differences in opinion could not be completely resolved. Germany indicated that it would be able to accept a 25 year transition period for the exclusion of mineral and spring waters if the provision would not only apply to already registered names but also to names who are still in the process of being registered. The Commission again indicated its willingness to compromise on the length of the transition period. No change in positions occurred with respect to the demands made by France and Portugal for the inclusion of several other products. However, the two countries noted the opinion of the Council’s legal service, which supported the Commission opinion that sea salt was not included in the treaty definition of agricultural products.

¹⁶ Council (2002): Outcome of proceedings of the meeting on 21 May 2002 of the Special Committee on Agriculture, 21 May 2002, 8906/02 + Add. 1.

¹⁷ Council (2002): Draft minutes of the 2428th meeting on 27 May 2002 of the Council (Agriculture), 9 July 2002, 9251/02, p. 5.

With regard to the co-existence rules, Germany and Ireland still disputed the maximum time period for co-existence proposed by the Commission. Ireland opposed any limitation of the time period for co-existence. Germany, supported by Austria, made a compromise proposal. Germany suggested that it would be able to accept a 25 year co-existence period in exchange for less strict requirements that traditional non-registered names have to fulfil to qualify for the co-existence provision. The Commission retained its position, arguing that only limited use should be made of the co-existence possibility. Given the stalemate on this point, several Member States (FR, ES, PT) questioned the value a general co-existence clause and pointed out that it might be more useful to find a specific solution for the problem of Munster cheese¹⁸. Munster cheese was produced in Germany as well as Ireland and both countries wanted to retain the label. The change in the positions of a number of delegations should be noted here. At the start of negotiations, Belgium, Luxembourg, the Netherlands, Sweden and the UK had also supported a longer co-existence time period. However, at this stage, these delegations were apparently able to accept the Commission provisions. No changes occurred with respect to the remaining issues. Denmark still demanded to wait for the outcome of the TRIPS negotiations before deciding on the dossier.

Overall, nine out of the original 19 issues and sub-issues had been resolved by July 2002. However, the Member States had not settled any of the more serious disagreements. The Danish Presidency did not continue negotiations, probably because the EP did not deliver its opinion until the end of the Danish Presidency on 5 December. The Greek Presidency took up the negotiations again at the beginning of the year 2003. The first SCA meeting under the chairmanship of Greece on 13 January 2003 was characterised by deadlock. Germany and Ireland still insisted on a longer transition period for the co-existence of identical names. Ireland even called for the deletion of the co-existence time limit. The Commission refused this request categorically. Based on the opinion of the Council legal service, the Commission also rejected the inclusion of sea salt in the scope of the Regulation. The legal service had argued that the inclusion of sea salt would require an amendment of the list of

¹⁸ Council (2002): Report of the meeting on 18 July 2002 of the Working Party on Foodstuff Quality (Geographical Indications and Designations of Origin). 5 September 2002, 11156/02.

products regulated by the CAP as contained in annex 1 to the TEC¹⁹. Italy introduced another demand in response to newly erupted disputes of Italian producers with foreign companies about the packaging of registered products outside the region in which they were produced. Italy requested to allow regional producers to include the packaging within the region as part of the specification requirements of a registered product²⁰. France, Spain and Portugal supported the Italian request.

The discussions during the next SCA meeting of 25 March resulted in a new compromise proposal by the Presidency. The SCA accepted this proposal in its meeting on 31 March. Regarding the scope of the Regulation, the committee accepted France's proposal to include mustard paste and pasta and Portugal's proposal to include wool fibres and wicker. Both delegations had also demanded the inclusion of salt in the scope of the legislation, but this request was not met. Interestingly, the SCA also incorporated several additional products suggested in the EP's opinion in the list of types of products covered by the Regulation. As proposed by the Commission but strongly opposed by Germany, the SCA decided to exclude mineral and spring waters from the Regulation's coverage. However, the Commission agreed to extend the transition period for already registered mineral and spring waters from five to ten years. Furthermore, the transition period applies not only to already registered names, but also to names that are in the process of being registered.

The SCA also agreed to change the provisions on product specifications to allow for the possibility of requiring that a certain product is not only produced but also packaged in a region. This change was a direct result of demands by France, Spain, Portugal and particularly Italy. The SCA extended the application and objection procedures of the Regulation to also cover products of WTO countries, despite the objections of the Danish delegation. In a similar vein, the committee adopted the rules governing the co-existence of a registered name and an identical non-registered geographical name as proposed by the Commission, although several aspects of these rules were contested by a number of delegations. Particularly Germany and Ireland had been strongly opposed to the time limit set for the co-existence of identical product names. In the end, the SCA accepted the compromise

¹⁹ Europe Agri (2003): Council debate on designations of origin bogged down. 31 January 2003.

²⁰ European Report (2003): Council close to agreement on registered designations of origin. 2 April 2003.

proposal by a qualified majority of Member States. Denmark opposed the decision and the United Kingdom abstained. Officially, the two countries did not support the adoption of the proposal because they were opposed to extending the provisions of the Regulation to WTO countries before the TRIPS negotiations were finalised²¹. However, the newly adopted provision allowing for the inclusion of packaging within the region as a specification requirement for protected products was a direct result of an ongoing legal battle between the British supermarket chain Asda and Italian Parma ham producers. Asda was selling Parma ham which was imported from the Italian Parma region but sliced and packaged in the UK. Similarly, Denmark opposed the Regulation in general, since the Commission had ruled that Danish cheese producers could not call their goat cheese 'Feta' anymore. Thus, domestic pressures might have also affected the decision of the two governments to not support the new Regulation. In any case, ministers of the Agriculture and Fisheries Council formally adopted the legislative act without discussion on 8 April.

9.2 Leaf Tobacco Regulation

9.2.1 *Background and proposal content*

The proposal amending the Leaf Tobacco Regulation suggested premiums and guarantee-thresholds for leaf tobacco by variety group and Member State for the years 2002, 2003 and 2004. The proposal also included amendments of some provisions of the common organisation of the market in tobacco²². In May 2001, the Commission published a Communication on an EU strategy for sustainable development. In this Communication, the Commission committed itself to the adaptation of the CAP tobacco regime "to reward healthy, high quality products and practices rather than quantity"²³. The Commission intended to introduce new legislation to fundamentally restructure the regime on the basis of an evaluation study, allowing for the phasing out of tobacco subsidies and replacing them by measures to develop alternative sources of

²¹ Agence Europe (2003): Council adopts new rules to protect geographic indications and appellations. 9 April 2003, Brussels.

²² Council Regulation 2075/92/EEC of 30 June 1992 on the Common Organisation of the Market in Raw Tobacco. 30 July 1992, OJ L215, p. 70.

²³ Commission (2001): A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development. 15 May 2001, COM/2001/264, p. 11.

income for tobacco growers. As the Commission did not expect any results of the evaluation study before late 2002, the Commission could not initiate such legislation before early 2003. Thus, the proposal considered in this study constituted an interim solution to secure the continued operation of the raw tobacco regime for another three harvests until the Council could make a more fundamental decision on its reorientation. The main changes that the proposal suggested can be summarised as follows:

- Changes in the size of the premiums for the years 2002 to 2004.
- Changes in the size of the guarantee thresholds for the years 2002 to 2004.
- Extending the applicability of the auction system.
- Abolishing the national tobacco quota reserves.
- Changes to the activities funded by the Community Tobacco Fund.
- Increases in the size of the premium deductions used to finance the Community Tobacco Fund.

As in the previous case, Member States had diverging views on all of these issues. In addition, the medium to long-term goal of abolishing tobacco subsidies became a highly contested topic. The Commission proposal included recitals referring to the “new priority” of phasing out tobacco subsidies and replacing them by measures to develop alternative means of employment and economic activity²⁴. These purely programmatic statements proved to be major obstacles for reaching an agreement in the Council.

9.2.2 *Negotiation process*

The adoption process of the proposal amending the Leaf Tobacco Regulation shows some similarities with the adoption process of the proposal amending the Geographical Indications Regulation. In both cases, the formal adoption process is not much longer than the actual negotiation process (see Table 9.2). Furthermore, the SCA also dominated the negotiation process within the Council, just as in the case of the Geographical Indications Regulation (see Figure 9.1). The Working Party on

²⁴ See recital 5 and the reference in recital 6 of Commission (2001) Proposal for a Council Regulation fixing the premiums and guarantee thresholds for leaf tobacco by variety group and Member State for the 2002, 2003 and 2004 harvests and amending Regulation 2075/92/EEC. 21 November 2001, COM/2001/684.

Tobacco discussed the dossier only once at the beginning of the Council negotiations. In contrast, the SCA dealt with the dossier on five occasions. Also similar to the Geographical Indications Regulation, ministers held a policy debate on the proposal relatively early during the negotiation process. However, the process also shows some marked differences. Firstly, the whole adoption process took less than four months, almost nine months less than the adoption of the proposal amending the Geographical Indications Regulation. Secondly, ministers did not only hold a general policy debate on the proposal as in the case of the Geographical Indications Regulation, but actively negotiated the final agreement.

Table 9.2 Leaf Tobacco Regulation: Main decision-making events

<i>Date</i>	<i>Collective actor</i>	<i>Event</i>
21-11-2001	Commission	Adoption of proposal
22-11-2001	Commission	Transmission to Council and EP
04-12-2001	SCA	Decision on procedure
13-12-2001	WP	First reading of proposal
04-02-2002	SCA	Discussion of WP report
18-02-2002	Agriculture Council (B-item)	Policy debate
04-03-2002	SCA	Discussion of SCA report
12-03-2002	SCA	Discussion of SCA report
14-03-2002	EP	Adoption of opinion
14-03-2002	Commission	Refusal of EP amendments
19-03-2002	Agriculture Council (B-item)	Discussion of SCA report, political agreement on Regulation
25-03-2002	SCA	Finalisation of legal text
25-03-2002	Transport and Telecommunications Council (A-item)	Formal adoption of Regulation

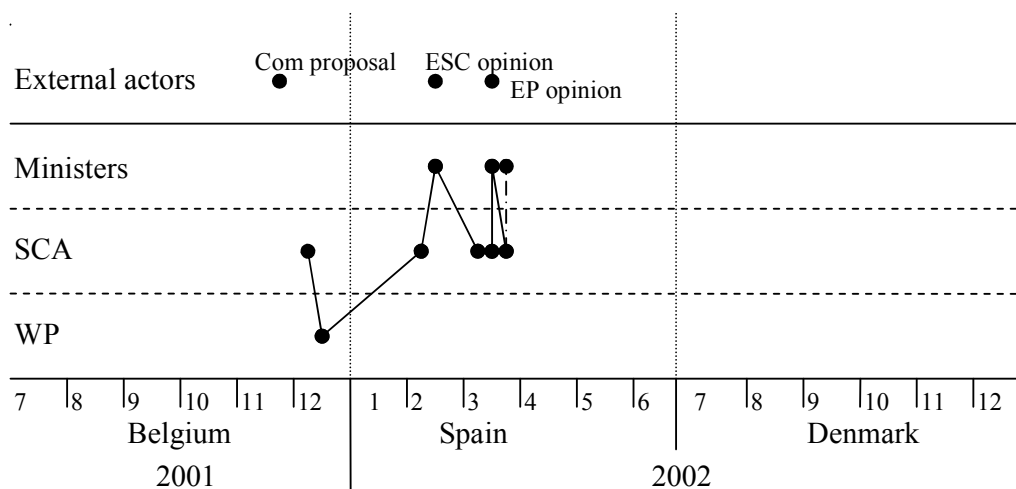
Notes: EP = European Parliament, SCA = Special Committee on Agriculture, WP = Working party.

The Commission adopted the proposal on 21 November 2001 and transmitted it to the Council on the following day. About two weeks later, on 4 December, the SCA decided that the relevant working party should first examine the dossier. Shortly afterwards, on 13 December, the Working Party on Tobacco discussed the dossier. The working party members identified already most of the contested issues in this meeting²⁵. A major point of disagreement was the goal of eventually abolishing tobacco subsidies. A number of delegations (AT, BE, FR, EL, IT, ES, PT) demanded the deletion of the recital referring to this goal. This group included all tobacco

²⁵ Council (2002) Report of the meeting on 2 February 2002 of the Special Committee on Agriculture, 11 February 2002, 6069/02.

producing countries except Germany²⁶. Several other delegations (DK, FI, DE, NL, SE, UK) supported the Commission's point of view. The Commission justified the phasing out of tobacco subsidies by a reference to obligations under the TEC to assure that any Community legislation ensures a high level of health protection. Some delegations that supported the Commission argued that Community subsidies for a product that harms human health were not acceptable, particularly in the light of public opinion. The tobacco producing countries argued that the reduction of subsidies would only have limited effects on tobacco consumption in the EU, much of which relied already on products imported from third countries, while having very negative social and economic consequences for regions relying heavily on tobacco production.

Figure 9.2 Leaf Tobacco Regulation: Negotiation process



Note: SCA = Special Committee on Agriculture, WP = Working Party.

Source: Data based on an analysis of Council documents.

Regarding the size of premiums, the Commission suggested a reduction of the premiums by ten percent for the least profitable variety group V, the so-called 'Sun cured' variety. The Commission argued that such a reduction was necessary to set a real incentive for tobacco producers to switch to more profitable variety groups. Not surprisingly, the only two countries producing this type of tobacco, Greece and Italy, were opposed to this reduction. In contrast, Denmark and Sweden favoured more far-

²⁶ The eight countries receiving tobacco subsidies under the Regulation are Austria, Belgium, Italy, France, Germany, Greece, Portugal, and Spain.

reaching measures in the form of a reduction of the premiums in all variety groups. We can observe a similar conflict constellation with respect to the size of the guarantee thresholds. The Commission suggested a two-step reduction: a first reduction for the 2002 harvest and a further reduction for the 2003 and 2004 harvests. The goal of these reductions was to support depressed market prices by reducing supply. The Commission determined the precise distribution of the reductions across variety groups through a selective approach that suggested more rapid reductions for the least popular varieties. Many of the tobacco producing countries (AT, EL, IT, ES, PT) opposed the suggested reductions and demanded the retention of the current rules until the results of the evaluation study were available. In contrast, Denmark and Sweden asked for larger and more rapid reductions.

Two other issues concerned aspects of the Community Tobacco Fund. In line with the goal of phasing out tobacco subsidies, the Commission suggested reorienting the fund by changing the types of activities supported and to increase the deductions used to finance the fund. With respect to the financed activities, the proposal suggested to replace research on healthier, more environment-friendly and economically sustainable varieties of tobacco and on alternative uses for raw tobacco with measures helping growers to switch to other crops or economic activities altogether. Most of the tobacco producing countries (AT, FR, EL, IT, PT, ES) resisted such a change, making the case that a fund financed by tobacco producers should not exclusively be used to discourage tobacco production. However, the Commission argued that it was necessary to refocus the activities financed by the fund to make better use of its resources.

In order to increase the funds available for information measures on the health-risks associated with tobacco consumption and for initiatives to switch to other types of crops or economic activities, the Commission suggested a step-wise increase in the levies charged to finance the fund. More precisely, the Commission advocated increasing the levy from two to three percent of the premium for the 2003 harvest, and from three to five percent for the 2004 harvests. Finland, Sweden and the United Kingdom favoured even larger and more rapid deductions to promote conversions of tobacco producers. In contrast, many producer countries (AT, FR, EL, IT, PT, ES) opposed these increases. They argued that increases of the levies were not necessary because the current resources of the fund were already not exhausted.

The original Regulation had set up national quota reserves to encourage existing producers to restructure their holdings and to increase efficiency. The Commission argued that the national reserves had little effect on farm restructuring, while the management of the complicated system resulted in an excessive workload for national administrations. Therefore, the Commission proposed to abolish the national reserves. Some producer countries (BE, EL, PT) opposed this change as well. Belgium, Greece and Portugal suggested allowing the Member States the option to retain national quota reserves if they wanted to.

Despite these disagreements, the Belgian chairman of the working party concluded that there was a broad approval of the proposal and that only some specific problems remained. In particular, the chairman stressed two issues that needed to be discussed by the SCA: the approach to the future development of the tobacco sector and the scope of the Tobacco Community Fund. For this reason, the chairman referred the proposal back to the SCA²⁷. Under the Spanish Presidency in the first half of the year 2002, the SCA did not consider the dossier until 4 February 2002. Delegations outlined and justified their positions in more detail, but they did not make substantial progress towards a solution. On the contrary, the Italian delegation posed new demands regarding the flexibility of the auction system, although the chair of the working party had already reported that delegations were able to agree to the measures proposed by the Commission.

The Commission proposal sought to make the auction system for cultivation contracts provided for in the original Regulation more flexible and easier to operate for Member States. In order to receive premiums, producers had to enter into cultivation contracts with companies that first processed their tobacco products. The EU then paid premiums according to the amount of tobacco agreed to and transferred under these arrangements. The proposal introduced the possibility to apply the auction system to a single variety group and not only to the whole range of variety groups produced in a Member State. The Commission expected that such a provision would increase the use of the auction scheme and, as a result, would increase competition on the side of first processors. The higher level of competition would in turn result in higher market prices for raw tobacco. While all delegations preferred the Commission

²⁷ Council (2001): Report of the meeting on 13 December 2001 of the Working Party on Tobacco. 30 January 2002, 5452/02.

proposal to the status quo, Italy requested to provide for even more flexible arrangements by allowing to limit auctions not only to specific groups of tobacco varieties but also to only those producer groups that actually wished to participate.

The SCA agreed that the future development of the tobacco regime and the activities supported by the tobacco fund as well as its financing were essentially political questions²⁸. Therefore, the SCA decided to ask the Council for guidelines on these matters. The SCA also urged the Council for a rapid decision on the dossier, as the planting season was approaching. Two weeks later, on 18 February, the Council held a policy debate on the three political issues identified by the SCA. The Council asked the SCA to take the points raised during the discussions into account, to continue its work on the proposal, in particular on the more technical questions, and to report back to the Council after the opinion of the EP had been received in March.

The SCA subsequently considered the proposal in two meetings on 4 and 12 March without achieving much progress. With the exception of France, all delegations had accepted at this stage the changes proposed by the Commission regarding the activities sponsored by the Community Tobacco Fund. Given that agronomic research on tobacco could still be funded through the Community's general research budget, France indicated its willingness to also agree to a reorientation of the fund as part of an overall compromise solution. Thus, the SCA essentially decided this important issue.

However, the SCA did not find solutions for the other contentious points. Among the questions the SCA members considered to be of "a more technical nature"²⁹, Italy reiterated its demand for maximum flexibility regarding the auction system. Belgium and Greece pleaded again for the optional maintenance of national quota reserves. Despite some difficulties, this demand was acceptable to most other Member States as part of an overall compromise solution. Only one delegation sided with the Commission in this case³⁰. Among the other questions, Italy and Greece continued to object to the reduction of premiums for variety group V, but the

²⁸ Council (2002): Report of the meeting on 2 February 2002 of the Special Committee on Agriculture. 11 February 2002, 6069/02.

²⁹ Council (2002): Report of the meetings on 4 and 12 March 2002 of the Special Committee on Agriculture. 15 March 2002, 7120/02, p. 7.

³⁰ Council (2002): Report of the meetings on 4 and 12 March 2002 of the Special Committee on Agriculture. 15 March 2002, 7120/02, p. 7.

Commission re-emphasised the need to set incentives for producers of this variety group to switch to other economic activities and rejected claims by the two Member States that premium reductions would actually lead to the opposite result. Despite attempts by the Presidency to reach a compromise solution, disagreements on the size of the guarantee threshold and the eventual phase-out of tobacco subsidies continued. Germany, the Netherlands, Finland and Sweden now joined Denmark and the UK in supporting the proposed reductions of the guarantee thresholds. However, the tobacco producing countries still opposed these reductions.

Differences in opinion also remained on the two points with “major political implications”³¹: the recitals stating the goal to eventually phase out tobacco subsidies and the size of the levies for the financing of the Tobacco Fund. Regarding the recitals, the Presidency suggested a re-wording to focus the text more on the specific reasons for adopting the current proposal. As a compromise, the Presidency suggested referring to the goal of achieving a better balance between the orientation of the Tobacco Fund and the health protection requirements of Article 152 TEC. Additionally, a Commission statement could be inserted in the Council minutes pointing to the prospect of fundamentally reforming the tobacco market organisation in the near future. Most delegations, including all producer countries, were able to accept the Presidency proposal. In this context, the Greek delegation again stressed the need to come to an agreement before the start of the planting season. Denmark, Germany, the Netherlands and the UK also signalled their willingness to compromise, but they insisted on a wording that would more closely reflect the spirit of the original recital. Only Denmark and the Commission continued to oppose any solution involving the deletion of the goal of phasing out tobacco subsidies.

The Presidency also made a compromise proposal to generate an agreement on the size of the levies used to finance the Tobacco Fund. The Presidency proposal allowed for an increase in the levies from two to three percent in 2003, as suggested by the Commission, but it also envisioned to freeze the deductions at this level rather than to increase them further to five percent in the year 2004. While the Italian delegation still opposed any increase in the levies, most other producer countries (AT, BE, FR, EL, PT, ES) indicated that the Presidency proposal was acceptable to them.

³¹ Council (2002): Report of the meetings on 4 and 12 March 2002 of the Special Committee on Agriculture. 15 March 2002, 7120/02, p. 2.

However, Denmark, Germany, Ireland, the Netherlands and Finland still backed the Commission proposal on this point. Sweden and the UK favoured even higher levies³².

This situation characterised the state of play of the negotiations after the SCA meeting on 12 March. Possible compromise solutions and the flexibility of Member States' positions had been explored, but substantial agreement was still lacking on almost all issues. The EP delivered its opinion two days later on 14 March, but there was still no prospect of reconciling the differences in positions in the SCA. Thus, the Presidency referred the dossier to ministers to be discussed during their meeting on 19 March. The ministers reached a political agreement on the dossier by qualified majority, but only "after lengthy discussions"³³. Regarding the more technical issues, the compromise allowed for auction schemes to be set up not only for individual variety groups, but also for certain producer groups as requested by Italy. Belgium, Greece and Portugal also succeeded with their demand for the optional retention of national quota reserves. With respect to the more political issues, the ministers agreed to the reduction of the premiums for group V products as suggested by the Commission, although Italy and Greece had opposed them.

As already predictable from the outcome of the SCA negotiations, agronomic research was indeed eliminated from the activities financed by the Tobacco Fund and replaced by measures and studies supporting the conversion of tobacco producers to other economic activities. With respect to the question of how to finance the fund, the ministers found a compromise between the Presidency proposal made during SCA discussions and the original Commission proposal. The original Commission proposal suggested increasing the deductions automatically to five percent of the premium in the year 2004. In contrast, the Presidency had proposed to freeze the size of the deductions at their 2003 value. Eventually, the ministers agreed that the Commission should report on the use of the Fund's resources by the end of the year 2003. This report may then be accompanied by a proposal to increase the deductions by up to five percent.

³² Council (2002): Report of the meetings on 4 and 12 March 2002 of the Special Committee on Agriculture. 15 March 2002, 7120/02, p. 5.

³³ Council (2002): Press release on the outcome of the 2419th meeting on 18 March 2002 of the Council (Agriculture). 18 March 2002, 7097/02, p. 6.

Regarding the most contentious issue, the reference to the goal of phasing out tobacco subsidies, the ministers agreed to a solution based on the approach taken by the Presidency in the SCA. However, the compromise also takes account of the additional demands voiced by Denmark, Germany, the Netherlands and the United Kingdom. As a result, the new recitals do not mention the abolishment of tobacco subsidies as a strategic goal anymore, but acknowledge that the EU should support the development of “new sources of income and economic activity for the [tobacco] growers”³⁴. Furthermore, the recitals mention that the TEC requires that all Community legislation conforms to high health protection standards. As Denmark, Germany, the Netherlands and the United Kingdom requested, this wording was closer to the thrust of the original Commission proposal. As proposed by the Presidency, the Commission decided to ask for the inclusion of a formal statement in the minutes of the Council meeting. The statement announced that the Commission intended, as part of its strategy on sustainable development, to adapt the tobacco regime after its review in 2002 to allow for the phasing out of subsidies. Denmark, Germany, the Netherlands and the United Kingdom supported this statement. Regarding the reduction of guarantee thresholds, the ministers retained the cuts originally envisaged by the Commission proposal³⁵.

Despite several compromises, not all delegations could accept the final text of the proposal. From the very start of negotiations in the working party, Denmark and Sweden had demanded more encompassing reductions in premiums and larger cuts in the guarantee thresholds than proposed by the Commission. Together with Finland, Sweden and the UK had also asked for an even higher proportion of premiums to be deducted to finance the Tobacco Fund. In addition, these countries were staunch supporters of the Commission’s strategy to eventually phase out tobacco subsidies. Particularly Denmark was strongly opposed to the deletion of the recitals referring to these goals. Compared to the status quo legislation, the new Regulation moved the

³⁴ Council Regulation 546/2002/EC of 25 March 2002 fixing the premiums and guarantee thresholds for leaf tobacco by variety group and Member State for the 2002, 2003 and 2004 harvests and amending Regulation 2075/92/EEC. 28 March 2003, OJ L84, p. 4–7.

³⁵ Although the thresholds for all countries were reduced as compared to the status quo figures of the year 2001, the reduction finally agreed to did not always correspond to the initial suggestions of the Commission. Compared to the Commission proposal, the agreed reductions were larger for Italy and Belgium, but smaller for Spain and Portugal.

policy considerably towards the most preferred positions of Denmark, Sweden and the United Kingdom. Nevertheless, the United Kingdom abstained and Denmark and Sweden voted against the adoption of the Regulation.

9.3 Comparative analysis

In this section, I compare Council decision-making on the two Agriculture proposals. First, I outline similarities and differences of the adoption processes. Then I discuss the varying degrees of involvement of different Council levels. I pay special attention to the explanatory power of the factors outlined earlier and already examined in the quantitative analysis. However, I also identify additional factors that seem relevant but have not been discussed before.

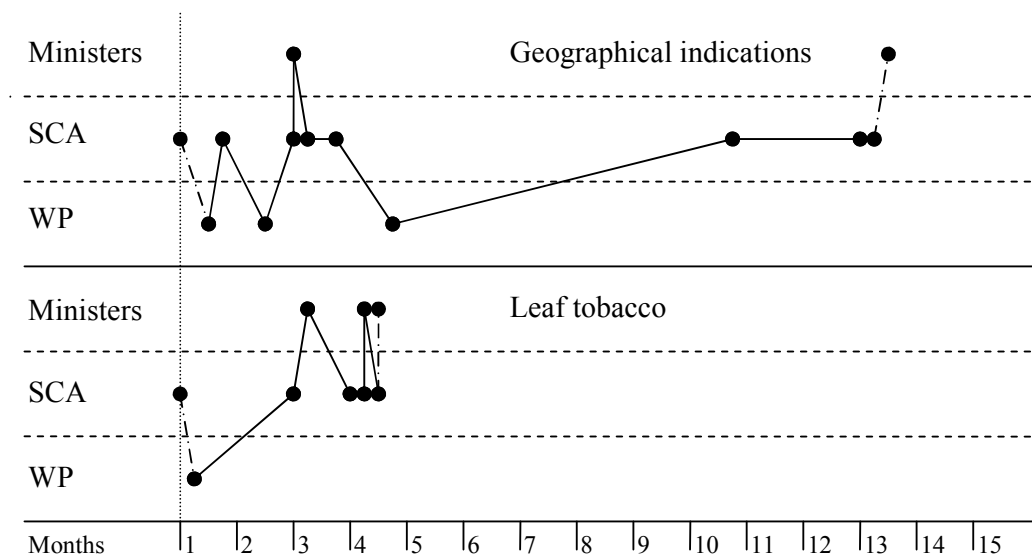
9.3.1 Negotiation process

The negotiation processes on the two Agriculture proposals show some similarities. In both cases, the SCA dealt first with the dossier and decided about the ‘procedure’ through which the dossier was to be examined. The SCA decided whether the dossier would be discussed by a working party and which working party that would be. Although this decision is usually just a formality, it distinguishes the working method of the SCA from those of the two Coreper formations. In both cases, the SCA also concluded to convene the relevant working party. The Working Party on Foodstuff Quality (Geographical Indications and Designations of Origin) met three times to discuss the Geographical Indications Regulation. The working party resolved a considerable part of the contested issues. Member States did simply not reiterate some less crucial suggestions made early in the negotiations when it became apparent that these suggestions were not supported by other delegations in the working party. Other suggestions were not contested as most Member States could agree with the proposed provision. The opinion of the legal service also solved a contested issue. However, the SCA regularly received reports of the progress of negotiations in the working party and was actively involved in advancing the discussions on the dossier. In the case of the Leaf Tobacco Regulation, the Working Party on Tobacco met only once. The working party did not solve any of the contested issues in this case. The negotiation took place mainly in the SCA.

Another similarity concerns the early involvement of ministers. In both cases, the SCA asked ministers to have a general policy debate relatively soon after the

beginning of the negotiation process. Whether these ministerial policy debates are characteristic for decision-making in Agriculture or rather for the way the Spanish Presidency led the negotiations in the Council is hard to judge. However, several indications suggest that both proposals were among the priorities of the Spanish Presidency. Spain held the Presidency in the first half of 2003. The Spanish Presidency had scheduled the adoption of the Leaf Tobacco Regulation for March and the adoption of the Geographical Indications Regulation for April. In the latter case, the Spanish Presidency even publicly voiced its annoyance over the delay caused by the late EP opinion³⁶.

Figure 9.3 Agriculture: Comparison of negotiation processes



Note: SCA = Special Committee on Agriculture, WP = Working Party.

Source: Data based on an analysis of Council documents.

The main difference in the decision-making processes of the two proposals was their duration. The decision-making process on the Geographical Indications Regulation took almost three times as long as the negotiations on the Tobacco Leaf Regulation. Two reasons are responsible for this difference in the length of negotiations. Firstly, the EP delayed a decision on the Geographical Indications Regulation by about half a year. The EP set its internal decision-making process in motion rather late and did not deliver its opinion before December 2003. The Spanish Presidency had complained

³⁶ European Report (2002): Farm Council: Decision on potato starch likely in short meeting on May 27. 25 May 2002.

about this hold-up already in May. Note that the delay was not the result of an intentional strategy of the EP to get the Commission to adopt some of the EP's amendments³⁷. The delay was simply due to a slow internal decision-making process on the part of the Parliament.

Secondly, the Leaf Tobacco Regulation needed to be adopted urgently, because the planting season for tobacco growers was approaching. Particularly the tobacco producing countries were eager to get the Regulation adopted in order to provide their farmers with reliable guidelines. This urgency was the reason why Member States discussed the proposal in short sequence at a number of SCA and Council meetings during the first half of the year 2003. Thus, the large difference in the length of the adoption process was a result of both the delay of the Geographical Indications Regulation through the late opinion of the EP and the perceived need to adopt the Leaf Tobacco Regulation as quickly as possible.

Another difference concerns the closure of negotiations. In the case of the Geographical Indications Regulation, the SCA eventually adopted the proposal by a qualified majority of Member States. Agriculture ministers only rubber-stamped the agreement as an A-item. Given the lack of actual decisions reached in the ministers' earlier policy debate, the overall substantial input of ministers to the negotiations must be judged to be rather modest. In the case of the Leaf Tobacco Regulation, the initial ministerial policy debate was not more fruitful. However, the SCA was also not able to make any further progress on the proposal. In the end, only Agriculture ministers were able to reach a final agreement after extensive negotiations.

9.3.2 *Decision-making level*

In Table 9.3, I present the number of issues decided at different Council levels. The table is based on a detailed analysis of contested points in the two decision-making processes. I indicate the level at which Member States resolved an issue as well as the type of final policy outcome. With regard to the type of policy outcome, 'proposal' means that the Council retained the provision as suggested in the original Commission

³⁷ The Council can only adopt legislation after the EP has delivered its opinion. If the Commission is eager to get a piece of legislation adopted quickly, the EP can exploit this rule to receive some policy concessions. The EP can use the threat of delaying the adoption of its opinion to force the Commission to incorporate some of the EP's amendments.

proposal. If the Council decided to change the dossier to fully incorporate a suggestion of a Member State, I classified the issue as being an ‘amendment’. Finally, if the final Council decision incorporated a solution that was different from both the original proposal text and the demands of Member States, I coded the issue as a ‘compromise’. I present the disaggregated data on which Table 9.3 is based in the appendix to this chapter³⁸.

Table 9.3 Agriculture: Types of negotiation outcomes by Council level

<i>Outcome</i>	<i>Geographical Indications</i>				<i>Leaf Tobacco</i>			
	WP	SCA	Ministers	Total	WP	SCA	Ministers	Total
Proposal	4	6	0	9	0	0	3	3
Amendment	4	3	0	7	0	0	2	2
Compromise	0	2	0	2	0	0	3	3
Total	7	11	0	18	0	0	8	8

Note: SCA = Special Committee on Agriculture, WP = Working Party.

Source: Data based on an analysis of Council documents. See the appendix to this chapter for more detailed information on the individual issues.

The table shows stark differences between the two cases. In the case of the Geographical Indications Regulation, ministers did not decide any of the issues. In contrast, ministers decided all issues in the case of the Leaf Tobacco Regulation. However, the latter finding might somewhat exaggerate the role of ministers. At least some of the issues retained until the last minister meeting were not really controversial and were probably left open for strategic reasons or simply because no need existed to incorporate these demands into the text earlier. In particular, the optional retention of national reserves as requested by Belgium and Greece as well as the further increase in the flexibility of auction schemes as demanded by Italy were not opposed by any of the other actors. These changes had no negative consequences on other Member States or for the achievement of the goals of the Regulation. Yet, the

³⁸ To generate the figures in the appendix, I identified all contested issues in a proposal and traced the length of their discussion over time. As a primary source of information, I relied on Council documents describing the progress of negotiations in different Council bodies. The figures indicate what the disagreements were about, at what time in point a certain issue was raised, how long it was discussed or at least mentioned as being unresolved, on which level the issue was closed and in what type of outcome the discussions resulted. Although the figures in the appendix present a wealth of information and are interesting in their own right, their detailed discussion is beyond the scope of this thesis. I present the figures in the appendix only to be transparent about the generation of the aggregated comparison tables included in the main part of the chapter.

Presidency changed the text of the dossier only after the ministers had reached a complete compromise solution. Despite this caveat, the fact remains that ministers decided most issues of the Leaf Tobacco Regulation. In contrast, the working party and the SCA exclusively decided most issues in the Geographical Indications case. Interestingly, the SCA decided considerably more issues than the working party. Overall, these descriptive findings suggest that the characterisation of the Council as a filtering system might be too simplistic. If the Council structure acted as a filtering system, we would expect to see a decreasing number of issues decided at higher levels of the Council hierarchy. Table 9.3 gives no indication of any such pattern.

Preference divergence among Member States can by itself not explain why certain issues are discussed at higher Council levels and why others are not. Preference divergence of actors is a defining characteristic of all controversial issues. At least in the case of the Geographical Indications Regulation, the working party decided a number of issues on which Member State preferences diverged. However, no reason exists for a discussion at higher Council levels if actors agree on a certain course of action. Thus, preference divergence is a precondition for higher Council levels to discuss an issue, but it is not a sufficient factor.

Two other factors also seem relevant. First, the salience of issues is a major determining factor. In the case of the Geographical Indications Regulation, the SCA asked ministers to focus their discussion on those issues that had direct adverse consequences for specific groups of producers in different Member States. These issues included the exclusion of mineral waters from the scope of the Directive. Germany heavily opposed the exclusion of mineral waters from the scope of the Directive because a very large number of mineral water producers with registered names were located in Germany. Similarly, ministers discussed the requests by France and Portugal to have several additional products covered by the Directive. These products were especially prevalent in these countries. The other main issue concerned the co-existence of homonyms. The Commission had suggested a 15 year transition period for the co-existence of protected names and identical geographical names not covered by the Regulation but legally used for a long time. Several delegations opposed the requirement for an eventual abolition of traditionally used names, mostly because domestic companies were affected adversely by such a requirement.

Similarly, the first discussion of ministers in the case of the Leaf Tobacco Regulation focused on the eventual phase out of tobacco subsidies as a medium-term

policy goal as well as the financing of the tobacco fund and the types of activities supported by the fund. Direct consequences of the provisions for national interests were not the main factor making these issues salient. However, the suggestions by the Commission threatened to funnel the future decision on the EU's tobacco regime in a direction that countries with many tobacco producing farmers strongly opposed. Thus, these issues threatened to have severe negative consequences for important national constituencies in the future. Still, the ministers eventually had to decide on all outstanding issues in the proposal, not only on the most salient ones. We can consider at least three potential explanations for the strong involvement of ministers. First, at least two of the other issues did not require any real discussions on ministerial level. These issues got pulled along with the more salient ones. Second, the remaining issues were quite important as well. For example, the sizes of premiums and guarantee-thresholds directly affected tobacco farmers' incomes. Thus, their discussion by ministers might not be so surprising after all. Third, the Presidency was eager to finalise the negotiations before the start of the tobacco planting season. Rather than to go through a protracted negotiation process at the committee level, the Presidency might have figured that the chances of a quick adoption are highest at the level of ministers, who have the authority to agree to more far-reaching compromises. In the two compared cases, the effects of Presidency impatience on the one hand and salience on the other hand are hard to discern. But the possible effects of Presidency priorities are further investigated in the remaining case studies.

Regarding the effect of the voting rule, the empirical record is mixed. On the one hand, Member States discuss some issues at higher levels that are only contested by one or very few Member States without a blocking minority. In the case of the Geographical Indications Regulation, only individual Member States demanded the inclusion and exclusion of different products from the scope of the Regulation. Nevertheless, ministers discussed the issue and actually met some of the Member States' demands. On the other hand, many idiosyncratic requests regarding less salient issues seem to be simply dropped during negotiations at lower levels of the hierarchy when it becomes apparent that these requests will not gather enough support from other Member States to be adopted. The clearest evidence for an effect of the voting rule is the fact that the SCA made the final decision through a vote. The SCA did neither want nor need to refer the proposal to ministers to reach a more encompassing compromise. The first ministerial discussion in the case of the Leaf Tobacco

Regulation involved only issues where two larger blocks of Member States opposed each other. This finding also supports the relevance of the voting rule. In the second meeting in the case of the Leaf Tobacco Regulation, ministers made the final decision on all issues. Still, Member States received only concessions in cases where they formed a blocking minority. The two rather uncontroversial demands to allow for the optional retention of national reserves and for a further increase in the flexibility of auction schemes formed the exception to this pattern.

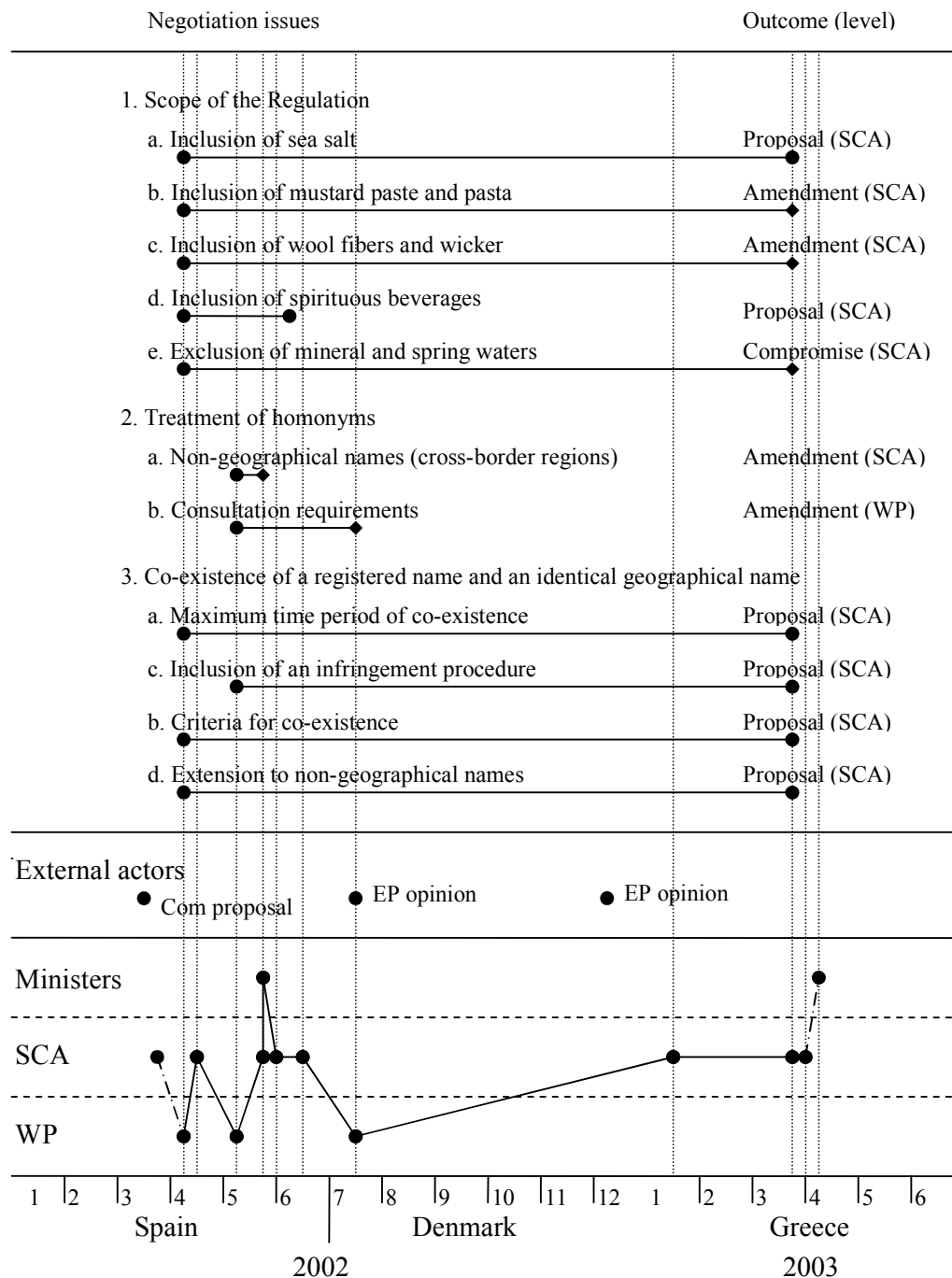
The EP had virtually no effect on the level of decision-making in the Council. The late opinion of the EP surely delayed the Council decision-making process in the case of the Geographical Indications Regulation, but it did not affect the negotiations substantially. In both cases, the Council bodies did not even discuss the opinion of the EP. Any effect of uncertainty is hard to detect in a comparison of the two cases, mainly because the consequences of the provisions proposed in the dossiers were relatively clear. Both proposals made adjustments to legislation already in force for about a decade and the amendments proposed by the Commission had straightforward implications. The fact that the SCA is dominating Council negotiations in Agriculture to such a large extent might be in part a result of the absence of a larger information asymmetry between the SCA members and working party officials about the consequences of policy provisions. In contrast to Coreper, the SCA consists of policy experts. Thus, working parties in the field of Agriculture have a smaller informational advantage in relation to their senior committee than the working parties in other Council formations.

In summary, the working parties played a rather limited role in the two examined Agriculture cases. On the one hand, the low involvement of working parties is probably due to the salience of many of the contested issues. The salience of issues and the impatience of the Presidency are the main candidates for explaining the early ministerial discussions of the dossier in both cases as well as the final decision by ministers in the case of the Leaf Tobacco Regulation. On the other hand, the low involvement of working parties might also be caused by the lack of an information asymmetry between the working party members and the members of the SCA. The SCA has both more time and policy expertise than the Coreper formations in other Council formations. As expected by theory, the EP had no influence on Council decision-making under the consultation procedure. The evidence regarding the effect

of the voting rule is somewhat ambiguous, but tends towards corroborating the hypothesis.

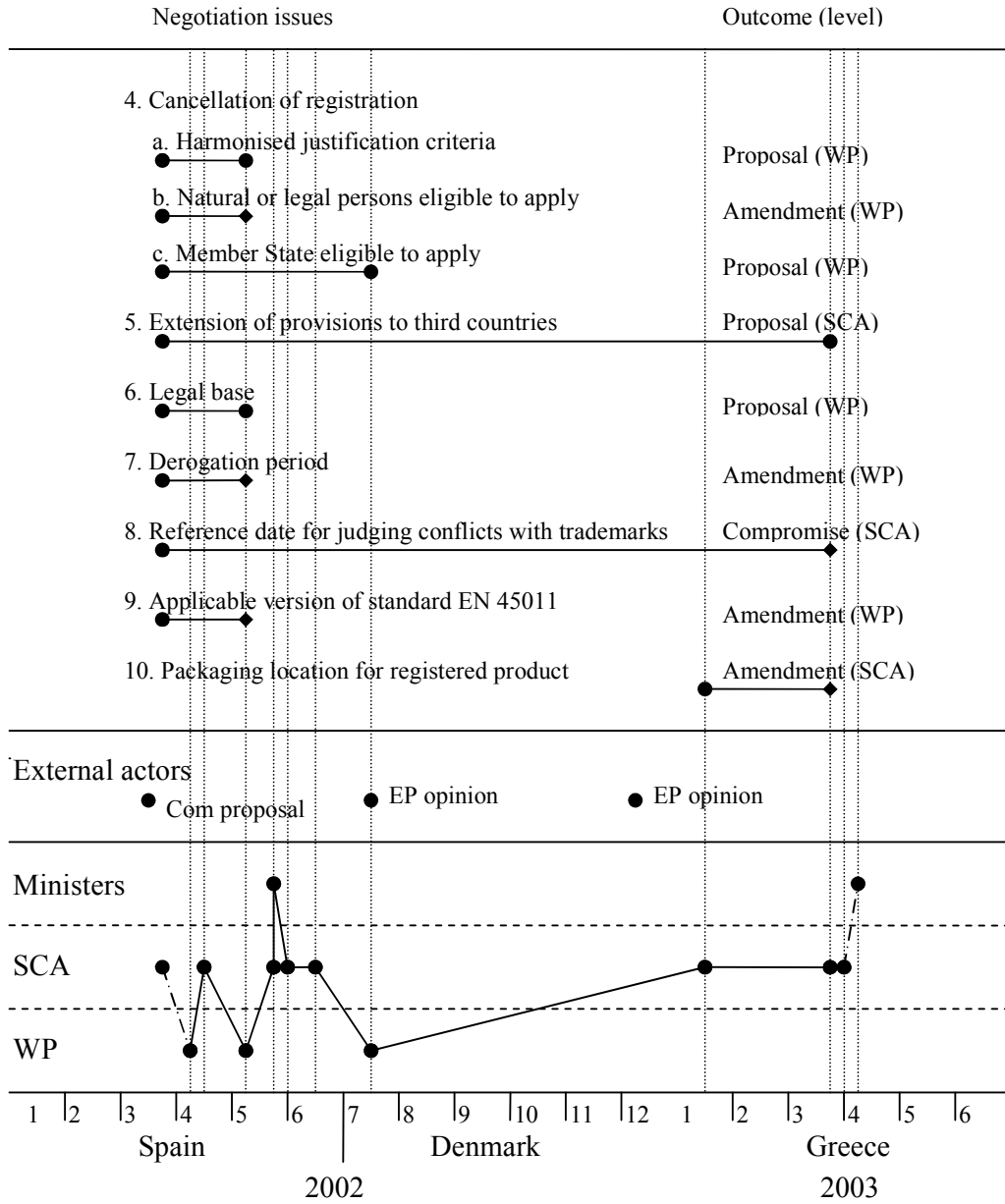
9.4 Appendix: Development of individual negotiation issues

Figure 9.4 Geographical Indications Regulation: Negotiation issues



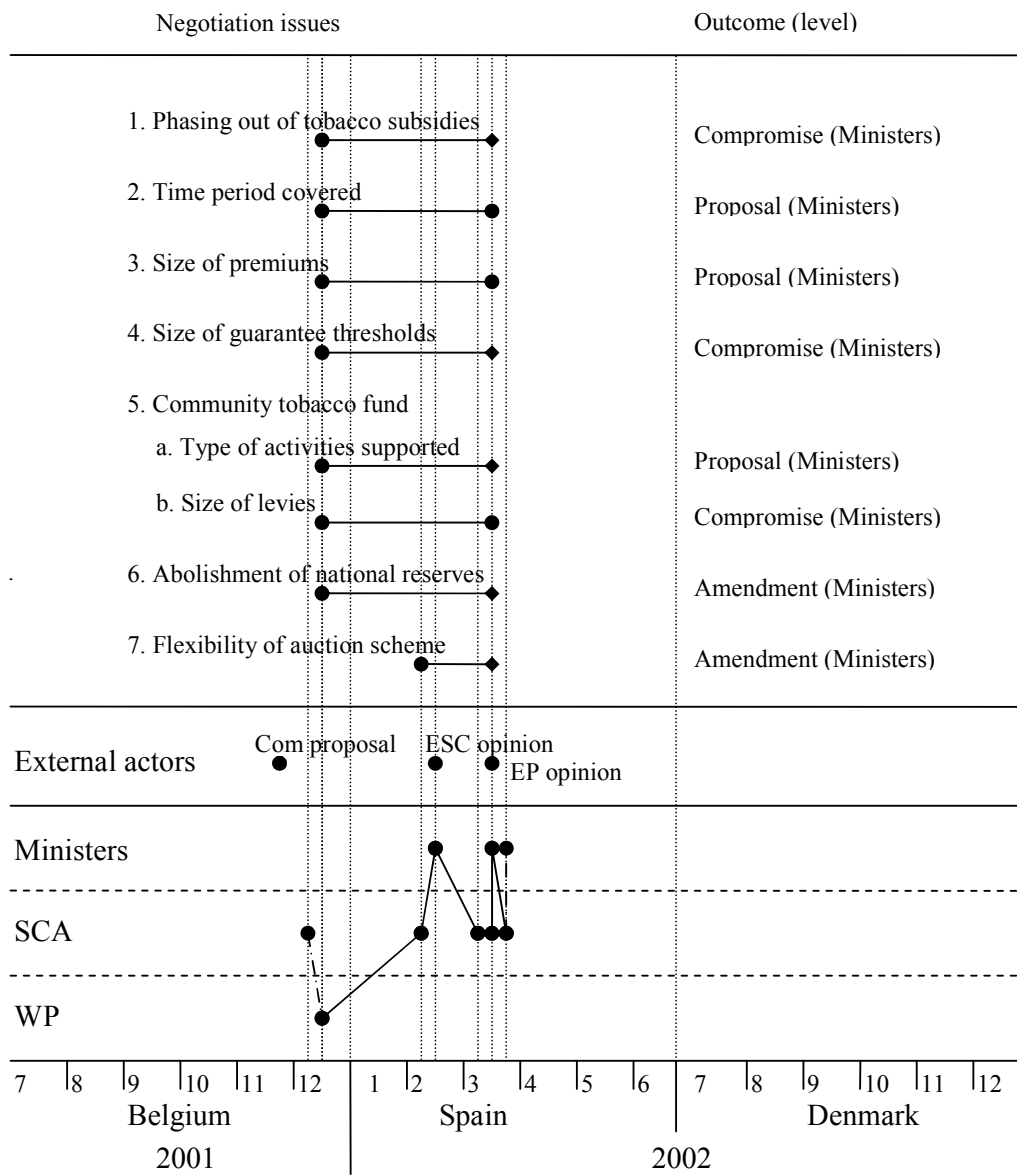
Note: See footnote 38 on page 151 for further information on this figure and its data sources.

Figure 9.4 Geographical Indications Regulation: Negotiation issues (continued)



Note: See footnote 38 on page 151 for further information on this figure and its data sources.

Figure 9.5 Leaf Tobacco Regulation: Negotiation issues



Note: See footnote 38 on page 151 for further information on this figure and its data sources.