



setting up a central committee to simplify and clarify the rules of the procedures for IPR. Nevertheless we are not convinced that the centralisation of all procedures in just one committee (including the granting of authorisations) constitutes in itself an improvement towards the objective of a more efficient and accessible IPR tool.

In particular, we are concerned about the politicisation of this process from a simple assessment of economic viability to using Community sources, to a political decision on whose essential interests should prevail, the interest of Community producers or the interests of operators who use or intend to use the processing procedure.

**The definition of 'essential interests' remains vague. We need exhaustive clarifications and quantifications of the exact meaning of the wording** used many times in the DG TAXUD proposal. We consider it impossible to evaluate this reform without understanding how the Commission will judge and quantify such "essential interests". We think the Commission should *clarify* these concepts and that the conditions of this "two step approach" should be formulated in a more precise manner, **possibly quantified through a "formula"**

For example: potential decrease of X% of the EU production

With this approach the conditions for intervention of the European Commission will be transparent to operators!

**The economic test should be based on clear and objective criteria, in order to avoid any distortion between operators in various Member states.**

For these reasons, we are convinced that "the economic test for granting the IPR" should be formulated in a more precise manner and **quantified through a "formula" (taking into account market price)**

For example: we suggest maintaining the Annex 74 guidelines

- **Exclusion from the economic test- article 502**

The last proposal of DG Taxud, foresees an increase of the "**de minimis threshold**", under which the economic conditions are deemed to be fulfilled, from 150,000 to 200,000 €/year/applicant.

An increase of such a minimum threshold is **indispensable** with regards to a potential increased used of IPR from our industry and **must be substantial**. We, therefore, consider that **the proposed increase (from 150.000 to 200.000 €/year/applicant) is not at all sufficient**. On the contrary in fact, this proposal takes a step backwards in comparison with the previous draft sent by the Commission (from 150.000 to 1.000.000 €/year/applicant)!

Furthermore, in light of the plans to phase out export refunds and the reform process in some agricultural sectors (e.g. dairy, sugar) we suggest **that economic conditions be always deemed as fulfilled for products for which export refunds are set at zero at the time of an IPR application.**

We recommend that access be granted by default for the maximum number of products and the test remains reduced to a minimum based on risk analysis, purely on economic criteria and on viability of sourcing, and that politicians should be left to decide issues of restricted agricultural markets and the impact on the EU's food export industry in the broader context of CAP reform.

Furthermore, we also need an exhaustive list of the products and clear criteria to determine for which products the economic test has to take place (such as the Annex 73).

- **Sensitive products**

For sensitive products, we don't share the opinion of taking the "a priori economic test", but we support the proposal to define (at EU level) clear criteria in order to determine whether or not an economic test should take place.

In our opinion the list of sensitive products should remain limited and products included should be clearly defined. This is an essential requirement in avoiding the problems of possible "politicisation of the IPR procedure" and an increase in bureaucratic burden.

Other points:

- **Transport costs and the economic test**

In addition, the economic test should compare prices of raw materials only within and outside of the EU to determine if IPR should be authorised. We understand that under the new regime, transport costs will be included in the comparison price for ex-EU but not inter-EU. However, as we also have to pay transport prices within the EU to move goods around, it is important to exclude transport costs from both calculations when determining if the gap is sufficient to permit IPR.

- **Period for granting IPR authorisation**

The current 30 day waiting period for granting IPR authorisation (existing Art. 506) is too long and often not respected in certain Member States. If national authorities require more information, there is no clear time limit set by the legislation. The legal text should be improved, and precisely we suggest that the regulation indicates a time limit above which, also without response from the authorities, the IPR authorisation is considered as granted.

While welcoming this approach, we would like clarification on how the wording "except where there are duly justified good reasons" would be implemented in practice.

**We ask to clarify when the additional information is needed and also to define the specific deadline after which, also when additional information is required, the IPR authorisation is considered as granted.**

***NB: We ask to extend the above-mentioned dispositions to cases in which evaluation of economic condition is required.***

DG Taxud proposes to abandon the specific validity period of the authorisation (Art. 507) for agricultural products, notably for milk products. We consider that the extension of the validity period of up to 5 years is a positive improvement, and we suggest extending the validity period also for sensitive products. Welcoming this approach, we would like clarification on how the wording "except where there are duly justified good reasons" would be implemented in practice.

- **Drawback clause**

CAOBISCO opposes the removal of the drawback system in the MCC. Some operators use this procedure that provides them with flexibility in their exporting operations.

- **Equivalence**

The equivalence rules for dairy products are too restrictive and lead to excessive laboratory checks with huge costs. The difficulties for dairy products are related to the characteristics of this raw material i.e. need to be processed in a relatively short time. While we certainly want to maintain all the tools that prevent fraud, we ask for simpler rules especially with regard to the application of equivalence.

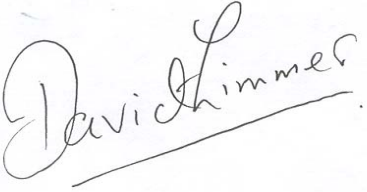
- PCC + IPR

CAOBISCO does not agree with DG Taxud's proposal to merge the **processing under customs control (PCC) and IPR**, which will then be subject to the same rules.

These procedures are too different in terms of target, rules and conditions. Therefore we ask that the current situation be maintained and the two procedures not be merged.

Moreover, we are of the opinion that this merger can only increase the complexity of the IPR reform.

Best regards

A handwritten signature in black ink that reads "David Zimmer". The signature is written in a cursive style and is underlined with a single horizontal line.

David Zimmer  
Secretary General