



**Evaluation of the proposal to restructure  
the rules for third countries access under  
the proposed revision of Regulation (EEC)  
No. 2092/91**

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## 1. Objective

This document evaluates the proposals for restructuring of the rules regarding third countries access under the EU Commission's draft of a new version of Regulation (EEC) No. 2092/91 issued on December 21, 2005.

## 2. Presentation of the proposed revision for imports of organic products from third countries

Title VI of the Commission's proposal contemplates three options, under which organic products produced in countries outside of the European Union can be marketed as organic products in the EU:

1. **Option 1:** The operator in the third country is inspected by either an EU control authority or by an EU control body (Article 27, point 2). The production standards and the control arrangements applied in the third country must be exactly the same as those laid down in the new EU-regulation on Organic Farming. So far, the regulation does not contemplate any system for approving and supervising the EU certification bodies for their activities in third countries.
2. **Option 2:** The third country is in a list of recognized third countries (Article 27, point 4) established by the Commission. The requirement for recognition is that the production standards and control arrangements in the third country correspond to the Codex Alimentarius or are equivalent to the new EU-Regulation on Organic Farming. The country must apply to be included in the list. Although an evaluation of *in situ* conditions may be done prior to inclusion in the list, this is not obligatory. No supervision of the conditions in the third country is foreseen after inclusion until now.
3. **Option 3:** The operator in the third country is inspected by a control body located in a third country, which has previously been accepted into a list of third country control bodies recognized by the Commission (Article 27, point 5). The requirement for recognition is that the production standards and control arrangements in the third country correspond to the Codex Alimentarius or are equivalent to the new EU-Regulation on Organic Farming. A request must be made by the third countries control body to be included. Although an evaluation

of *in situ* conditions may be done prior to inclusion in the list, this is not obligatory. No supervision of the recognized control bodies after inclusion in the list is foreseen until now.

In all three cases, the control authorities or the control bodies must issue a certificate before any marketing of the product as organic in the EU. In the proposed revision, certificates of inspection for imports from third countries, according to the provisions of Regulation (EC) No. 1788/2001, are no longer necessary.

Article 32, point 1 d) stipulates that the Standing Committee and the Commission can define the criteria and procedures for recognition of third countries and the control bodies located in third countries. They can also specify the requirements that certificates in third countries must meet.

The Commission's second proposal for change in Article 11 of Regulation (EEC) No. 2092/91, contemplates similar regulations. It proposes that the new requirements described above would come into effect on January 1, 2007. This proposal is meant to bridge the period up to January 1, 2009.

The current system of import authorizations will continue to be in effect until six months after the publication of the first list of control bodies based in third countries.

### **3. Scenario**

Since Regulation (EEC) 2092/91 came into effect, only a few third countries have been admitted to the list of third countries, according to Article 11 (1) of Regulation (EEC) 2092/91. The majority of imports from third countries are imported into the EU through import authorizations issued in accordance with Article 11(6) of Regulation (EEC) 2092/91.

Almost 75 percent of the certifications carried out every year in all third countries for products destined for the EU are carried out by certification bodies with headquarters in the European Union; the remainder are carried out by certification bodies with headquarters in the United States or by local certification bodies based in developing countries.

For the majority of these imports from third countries, certificates are issued stating full compliance with the organic production standards in the third country in accordance with Regulation (EEC) 2092/91, although it is well known that many of Regula-

tion (EEC) 2092/91's requirements are not applicable in third countries (e.g. requirements for the separation of organic and conventional production units (Annex III "Specific Provisions", point A), the requirements for organic seeds and vegetative propagation material (Regulation (EC) No. 1452/2003), the requirements regarding shortening of the transition period (Annex 1, Part A, No. 1.2), the bookkeeping requirements (Annex III, "General provisions", No. 7), the requirements concerning exchange of information between the control bodies (Article 9, point 7 b).

Regarding the production standards applied in the third country, the proposal does not provide any response to a frequent question asked by the control bodies in third countries, EU competent authorities and accreditation bodies, as to what, precisely, "equivalency" means. In third countries, in the future it will be possible to directly apply the new regulation (Article 27, point 1), or Codex Alimentarius or "equivalent" production standards, so long as they guarantee that the objectives and fundamental criteria of Title II of the new regulation are met (see Article 2, point 1 v, definition of the term "equivalency").

In the short term, as soon as the new regulation comes into effect (within the period stipulated), the certification of exports from third countries will shift, for the most part, into the hands of control bodies with headquarters in the EU.

In the medium term, the new regulation will lead to an organic inspection and certification system in many developing countries being carried out by local authorities without any participation by control bodies. This is due to the Regulation (EC) No. 882/2004, which stipulates clearly for ministries and subordinate authorities that the inspection of organic products are "official controls", that is to say, the task of governmental bodies.

Consequently, there is considerable concern that the technical quality of the organic inspections in third countries will decline. As well, it is not necessary for the competent authorities in the third countries to be accredited in accordance with ISO Guide 65 or to fulfill its requirements; thus, there will no longer be supervision exercised by accreditation bodies.

In conclusion, the new system proposed in the Commission's draft can considerably reduce the trustworthiness of products labeled organic imported from third countries and the degree of protection afforded to the consumer in the EU, and it could drastically limit the international competitiveness of European organic producers.

Reasons for this are:

1. Wide variety of production standards regarded as being acceptable in third countries
2. Integration of the organic certification process into governmental control systems
3. The nonexistence of specific provisions for the supervision of control bodies and control authorities operating in third countries

#### **4. Proposed changes**

1. The proposal must clearly state that in third countries, only equivalent production standards to those laid down in the new EU-Regulation on Organic Farming may be applied. Criteria for evaluating equivalence might be found in the Codex Alimentarius guidelines and in the IFOAM basic standards.
2. The proposed revised version should clarify what options exist for designing the control system, as has been done until now in Article 9, point 1, of Regulation (EEC) No. 2092/91. It should be clearly stipulated that private control bodies are an option.
3. The revised version must clearly state that both EU control bodies and control bodies based in third countries have to be registered on the Commission's list, according to Article 27, point 5, in order to operate in third countries. An adequate system of approval and supervision of such bodies needs to be established. For this purpose, it would be appropriate to establish a system of government authorizations for imports certified by new control bodies, similar to what is stipulated in Article 11 (6) of Regulation (EEC) No. 2092/91. Once there is sufficient experience with these new control bodies, admission to the EU's list of recognized control bodies can be requested.