



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 30 November 2006**

**DS 841/06**

**NOTE**

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from :            Presidency

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to :                Special Committee on Agriculture

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No. Cion prop. : 5101/06

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Subject :        Proposals for Council Regulations on organic production of agricultural products

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Delegations will find attached the revised text on the Control and Import provisions, which has been prepared by the Presidency in co-operation with the Commission Services, and which amends the provisions contained in doc. 13584/06.

*Article 2*  
**Definitions**

- (k) "competent authority" means the central authority of a Member State competent for the organisation of official controls in the field of organic production in accordance with the provisions set out under this Regulation, or any other authority on which that competence has been conferred to; it shall also include, where appropriate, the corresponding authority of a third country;
- (kk) "control authority" means a public administrative organisation of a Member State to which the competent authority has conferred, in whole or in part, its competence for the inspection and certification in the field of organic production in accordance with the provisions set out under this Regulation; it shall also include, where appropriate, the corresponding authority of a third country or the corresponding authority operating in a third country;
- (kkk) "control body" means an independent private third party carrying out inspection and certification in the field of organic production in accordance with the provisions set out under this Regulation; it shall also include, where appropriate, the corresponding body of a third country or the corresponding body operating in a third country;
- (t) "equivalent", in describing different systems or measures, means that they are capable of meeting the same objectives and principles by applying rules which ensure the same level of assurance of conformity;

**TITLE V**  
**CONTROLS**

*Article 22*  
**Control system**

1. Member States shall set up a system of controls and designate one or more competent authorities responsible for controls in respect of the obligations established by this Regulation in conformity with Regulation (EC) No 882/2004.
2. In the context of this Regulation the nature and frequency of the controls shall be determined on the basis of an analysis of the risk of breach of its provisions. In any case all operators, with the exception of wholesalers dealing only with pre-packaged products and operators selling to the final consumer or user, as described in Article 23 (2) (a) and (b), shall be subject to a verification of compliance at least once a year.
3. The competent authority may
  - a) confer to one or more other control authorities its control competences;
  - b) delegate control tasks to one or more control bodies.

Control bodies shall be accredited to the European Standard EN 45011 or ISO Guide 65 ‘General requirements for bodies operating product certification systems’ of the version as most recently notified by a publication in the *Official Journal of the European Union, C series* and be approved by the competent authorities.

4. Control authorities and control bodies shall give the competent authorities access to their offices and facilities and provide any information and assistance deemed necessary by the competent authorities for the fulfilment of their obligations according to this Article.
5. The competent authorities may not delegate or confer the following tasks to the control bodies;
  - (a) the supervision and audit of other control bodies;
  - (b) the competence to grant exceptions, as referred to in Article 16, unless this is provided for in the specific conditions laid down by the Commission in accordance with Article 16(3).
6. Member States shall attribute a code number to each control authority or control body performing control tasks as referred to in paragraph (3).
7. The control authorities and control bodies shall by 31 January each year at the latest transmit to the competent authorities a list of the operators which were subject to their controls on 31 December of the previous year. A summary report of the control activities carried out during the previous year shall be provided by 31 March each year.

#### *Article 23*

#### **Adherence to the control system**

1. Any operator, prior to placing any products labelled as organic or in conversion to organic on the market, shall:
  - (a) notify his activity to the competent authorities of the Member State where the activity is carried out;
  - (b) submit his undertaking to the control system.

Where an operator contracts out any of the activities to a third party, that operator shall nonetheless be subject to the requirements referred to in points (a) and (b), and the subcontracted activities shall be subject to the control system.

2. Member States may exempt from the application of this Article:
  - (a) wholesalers dealing only with pre-packaged products provided they do not import from a third country such products or;

- (b) operators who sell products directly to the final consumer or user provided they do not produce, prepare, store other than in connection with the point of sale or import such products from a third country.
3. Member States shall ensure that any operator who complies with the rules of this Regulation, and who pays a reasonable fee as a contribution to the control expenses, is entitled to be covered by the control system.
  4. The competent authorities shall keep an updated list containing the names and addresses of operators subject to the control system.

*Article 23a*

**Formal document**

1. The control authorities and the control bodies referred to in Article 22(3) shall provide a formal document to any such operator who is subject to their controls and who in the sphere of his activities, meets the requirements laid down in this Regulation. The formal document shall at least permit the identification of the operator and the type or range of products as well as the period of validity.
2. The model of the formal document referred to in paragraph 1 shall be drawn up in accordance with the procedure referred to in Article 31(2).

*Article 24 is deleted*

*Article 25*

***Measures in case of infringements and irregularities***

1. Where a severe irregularity is found as regards compliance with the requirements laid down in this Regulation, the control authority or control body shall ensure that the terms, indications and the logo referring to the organic production method are not used on the entire lot or production run affected by this irregularity;  
  
Where a manifest infringement or an infringement with prolonged effect is found, the control authority or control body shall prohibit the operator concerned from marketing products with terms, indications and the logo referring to the organic production method for a period to be agreed with the competent authority of the Member State.
2. Information on cases of irregularities or infringements affecting the organic status of a product shall be immediately communicated between the concerned control bodies, control authorities, competent authorities, Member States and, where appropriate, to the Commission.  
  
The level of communication shall depend on the severity and the extent of the irregularity or infringement found.

The Commission may in accordance with the procedure referred to in Article 31(2) lay down specifications regarding the form and modalities of such communications.

#### *Article 26*

### **Exchange of information**

Upon request duly justified by the necessity to guarantee that a product has been produced in accordance with this Regulation, the competent authorities and the control bodies shall exchange with other competent authorities and control bodies relevant information on the results of their controls. They may also exchange such information on their own initiative.

## **TITLE VI**

### **TRADE WITH THIRD COUNTRIES**

#### *Article 27*

### **Import of compliant products**

1. A product imported from a third country may be placed on the Community market labelled as organic provided that:
  - (a) the product complies with the provisions set out in Titles II, III and IV of this Regulation;
  - (b) the operators, including the exporters, have been subject to control by a control authority or control body recognised in accordance with paragraph 2;
  - (c) the operators concerned shall be able to provide, to the importers or the national authorities, a copy of a formal document as referred to in Article 23a, issued by the control authority or control body referred to in subparagraph (b).
2. The Commission shall in accordance with the procedure referred to in Article 31(2) recognise the control authorities and control bodies referred to in paragraph 1 (b), including control authorities and control bodies as referred to in Article 22, competent to carry out controls and to issue the formal documents referred to in paragraph 1 (c) in third countries, and establish a list of these control authorities and control bodies.

The control bodies shall be accredited to the European Standard EN 45011 or ISO Guide 65 'General requirements for bodies operating product certification systems' of the version most recently notified by a publication in the *Official Journal of the European Union, C series*.

When examining requests for recognition, the Commission shall invite the control authority or control body to supply all the necessary information. The Commission may also entrust experts with the task of examining on-the-spot the rules of production and the control activities carried out in the third country by the control authority or control body concerned.

The Commission assisted by the Member States ensures appropriate supervision of the recognised control authorities and control bodies by regularly reviewing their recognition. The nature of the supervision shall be determined on the basis of an assessment of the risk of the occurrence of irregularities or infringements of the provisions set out in this Regulation.

*Article 27a*

**Import of products providing equivalent guarantees**

1. A product imported from a third country may also be placed on the Community market labelled as organic provided that:
  - (a) the product has been produced in accordance with production rules equivalent to those referred to in Titles III and IV;
  - (b) the operators have been subject to control measures of equivalent effectiveness to those referred to in Title V and such control measures have been permanently and effectively applied;
  - (c) the operators at all stages of production, preparation and distribution in the third country have submitted their activities to a control system recognised in accordance with paragraph 2 or to a control authority or control body recognised in accordance with paragraph 3;
  - (d) the product is covered by a certificate issued by the competent authorities, control authorities or control bodies of the third country recognised in accordance with paragraph 2, or by a control authority or control body recognised in accordance with paragraph 3, which confirms that the product satisfies the conditions set out in this paragraph.

The certificate referred to in this subparagraph shall accompany the goods, in the original copy, to the premises of the first consignee; thereafter the importer must keep the certificate at the disposal of the control authority or the control body for not less than two years.

2. The Commission may in accordance with the procedure referred to in Article 31(2) recognise the third countries whose system of production complies with principles and production rules equivalent to those laid down in Titles II, III and IV and whose control measures are of equivalent effectiveness to those laid down in Title V, and establish a list of these countries. The assessment of equivalency shall take into account *Codex Alimentarius* guidelines CAC/GL 32.

When examining requests for recognition, the Commission shall invite the third country to supply all the necessary information. The Commission may entrust experts with the task of examining on-the-spot the rules of production and the control measures of the third country concerned.

The Commission assisted by the Member States ensures appropriate supervision of the recognised third countries by regularly reviewing their recognition. The nature of the supervision shall be determined on the basis of an assessment of the risk of the occurrence of irregularities or infringements of the provisions set out in this Regulation.

3. For products not imported under Article 27 and not imported from a third country which is recognised under paragraph 2, the Commission may, in accordance with the procedure referred to in Article 31(2), recognise the control authorities and control bodies, including control authorities and control bodies as referred to in Article 22, competent to carry out controls and issue certificates in third countries for the purpose of paragraph 1, and establish a list of these control authorities and control bodies. The assessment of equivalency shall take into account *Codex Alimentarius* guidelines CAC/GL 32.

The Commission shall examine any request for recognition lodged by a control authority or control body in a third country.

When examining requests for recognition, the Commission shall invite the control authority or control body to supply all the necessary information. The Commission may also entrust experts with the task of examining on-the-spot the rules of production and the control measures carried out in the third country by the control authority or control body concerned.

The Commission assisted by the Member States ensures appropriate supervision of recognised control authorities and control bodies by regularly reviewing their recognition. The nature of the supervision shall be determined on the basis of an assessment of the risk of the occurrence of irregularities or infringements of the provisions set out in this Regulation.

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