

Open letter

23th. November 2006

Mr. Juha Korkeaoja
Minister of Agriculture and Forestry
Hallituskatu 3 A
PO Box 30
FI-00023 GOVERNMENT
Finland

Dear Minister,

herewith the certification bodies:

Argencert SRL, Associação de Certificação Instituto Biodinâmico (IBD), BIO LATINA S.A.C., Biotropico, Bolicert, Cámara Argentina de certificadoras de productos orgánicos, alimentos y afines (CACER), Certificadora Chile Orgánico S.A. (CCO), CERTIMEX, Eco-LOGICA, Food Safety S.A., Grupo de Certificadoras Latinoamericanas (GLA), Organic Organización Internacional Agropecuaria (O.I.A.), Organic Agriculture Certification Thailand (ACT), Sociedad de Consumidores de Productos Biológicos (ASPB/ARU)

express our profound concern in regard to the proposed changes for market access of organic products from third countries to the EU-market and ask to consider our proposal. We refer to the document Interinstitutional File: 2005/0278 (CNS) from 31th October 2006.

I. The initial situation

Since the organic Regulation (ECC) N°2092/91 came into force, only few countries have been included in the third country list (article 11 **(1)** (EEC) N°2092/91). The largest part of organic products are imported into the EU, according to article 11 **(6)** VO (EEC) N°2092/91, which means that control bodies have to deal with import permissions and have to issue batch-certificates.

Currently a certain volume of products from third countries imported into the EU are certified by control bodies located within the EU. However, a significant volume of these products are certified by control bodies based in third countries.

The Regulation (EEC) N°2092/91 was developed for countries of the European Union. Therefore, operators in third countries work generally in "equivalence" to this regulation, which means standards equal to those of the EU but adapted to national or regional circumstances, as attested by the European accreditation bodies.

II. The proposal of the EU produces a competitive disequilibrium:

Disequilibrium of the market access

Control bodies located within the EU will have an unfair advantage compared to non-European control bodies:

- They will not have to apply for a special list for control bodies (time and cost advantage).
- They will not have to deal with import authorizations and batch-certifications.

As a result of this, products which are certified in third countries by EU control bodies will have easier market access than the others. This brings an important competitive advantage for EU control bodies and a competitive disadvantage for all other control bodies.

Compared to those within the EU, third country control bodies have to pay for the application to the list. Until now, no approval process has been defined. Again, this is a competitive disadvantage for non-EU control bodies.

Quality of work

Furthermore, as far as the quality of work is concerned, the proposal creates an uneven playing field between control bodies within and those outside the EU.

The proposal does not include a surveillance for the activities of EU control bodies in third countries. The result will be a worsening of the quality of organic products and of the protection for the consumers since it is clear that there are facts that show that control bodies do not always apply the same level of quality to their work when operating overseas.

For other approved third country list certifiers, with the new regulation, the EU-control bodies will be able to work also in recognized third countries. This means a direct intervention to the countries sovereignty and limits severely transparency of operations in these countries.

The legal background of the third country has to be respected, especially as regards the legal qualification of control bodies acting in the third country. For this reason, we ask the EU-Commission not to admit control bodies to the lists foreseen under Article 11(3) and (6) without having consulted the third country concerned before admission.

III. Consequences of the proposal

In the short term the certification will be realized only by international control bodies located within the EU because of the competitive disequilibrium.

Due to the fact that the new proposal incorporates the Regulation (EC) No 882/2004, in the medium term the result will be a reduction in the participation of private control in favour of more state control authorities. The consequence will be also a worsening in the quality of the control itself.

The proposal foresees that control bodies can work stating that they act in direct fully compliance with the EU-Regulation. Compliance with the EU-Regulation 1:1 is in the majority of cases impossible, because of very different production conditions such as climate, soils, cultures, and agricultural structure and market conditions. Only one example, are the requirements for documentation in accordance to Annex III, "General provisions", No. 7. The contradiction is that the imports to the European Union are covered by certificates of EU control bodies most of them stating full compliance with EU Regulation. That means that the actual malpractice of "compliance products" will go on".

Generally the local control bodies developed their own regulation or countries like Argentina developed their own organic regulation, in equivalence to the Regulation 2092/91 which are adapted to the local conditions. Only this can guaranty the consumer in Europe an organic product.

IV. We call upon the Commission to address the following:

It is necessary to change the proposal to remove the competitive unbalance between control bodies within the EU and certification bodies which are working only in third countries.

1. We call upon the EU-Commission to require that all control bodies, European and non-European, may, upon clear and defined conditions, register on the list of recognised third control bodies to avoid competitive disequilibrium.
2. Before the law will come into force, the EU should define the approval procedure for admission to the list of recognised control bodies. Until this date the EU-Commission should extend the period which is mentioned in Article 11, (6) of the EEC N°2092/91, that obliges all control bodies - as long they are not drawn up to the third countries list - to work with import permissions. That date should be extended until the date a procedure for admission to the list of recognised control bodies is defined and an appropriate deadline has been covered which would allow third country certification bodies to complete the process for recognition.
3. Control bodies SHALL work in equivalence to the EU-Regulation (ECC) 2092/91. Equivalence should be ruled by taking into account the Codex Standards as well as the IFOAM Basic Standards.

With this regulation the EU-Commission is most likely to break its WTO-obligations. Bio-colonialism, or any other kind of colonialism does not belong any more to modern world expectations!

We sincerely hope that the Commission will take into account our protest and modify the referred proposal.

Yours sincerely,

THE SIGNATORIES

- **Argencert SRL, Laura Montenegro** (General Manager)
Working countries: Argentina, Paraguay, Chile
- **Associação de Certificação Instituto Biodinâmico (IBD) – Alexandre Harkaly** (Director)
Working country: Brasil
- **BIO LATINA S.A.C.- Roxana Priego** (General Manger).
Working countries: Bolivia, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Peru, Panama, Venezuela
- **Biotropico - Maria Gisela Vescance** (Director)
Working countries: Colombia, Panama, Venezuela
- **Bolicert – Grover Bustillos** (Director)
Working country: Bolivia
- **Cámara Argentina de certificadoras de productos orgánicos, alimentos y afines - CACER - Dr. Roberto Rapela** (Presidente)
Working country: Argentina
- **Certificadora Chile Orgánico S.A. (CCO)**, (General Manger)
Working country: Chile

- **Certificadora Mexicana de Productos y Procesos ecológicos S.C. (CERTIMEX) – Taurino Reyes Santiago** (General Manager)
Working country: Mexico
- **Eco-LOGICA**
Working Country: Costa Rica
- **Food Safety S.A. - Dr. Roberto Rapela** (Presidente)
Working country: Argentina
- **Grupo de Certificadoras Latinoamericanas (GLA)**
Working countries: Latinamerica
- **Organic Agriculture Certification Thailand (ACT) - Vitoon Ruenglerpanykul**
Working country: Thailand
- **Organic Organización Internacional Agropecuaria (O.I.A.) – Pedro Landa**
Working country: Argentina, Nicaragua, Brasil
- **Sociedad de Consumidores de Productos Biológicos – Marta Claudio Zeballos**
(Responsable de certificación)
Working country: Uruguay