

# New Council Regulation on organic production and labelling of organic products: consultation on detailed applicatory rules

## Respondent category

Do you reply as: (compulsory)



an individual?



on behalf of an organization?



What is the name of your organization? (compulsory)

Fairtrade FINE Group



What is the type of your organisation? (compulsory)



Non Governmental Organisation (NGO)



Industry



Business Organisation



Trade Union



Public Authority



Academic Institution



Other

What is your activity field? (compulsory)

International Trade with specialist focus on Third Country Trade in all sectors including Organic traded products. Also Covering, Standard setting, Advocacy, Certification,

What is your country of residence? (compulsory)

Belgium is the main office, but stakeholder in all EC Member States and in the third countries.

What is your region of residence? (optional)

See above

## Section I: Allowing exceptions

Organic farming is developing rapidly, and common Europe wide rules apply to the sector for a relatively short period only. For plant production since 1992 and for animal production since 2000.

At that time existing animal stables and buildings were not always adapted to the new rules, for example as regards space or allowing animals to move freely. Similarly there were simply not enough organic breeding animals on the market to produce the needed numbers of laying hens, sows or heifers to become milking cows for example. The same applies to organic feed, seed or seedlings or other input. It is therefore logical that the first European Community rules allowed operators to use some exceptions, or derogations as they are currently called. However, the market for organic animals, seeds and other input has developed since the first rules started to apply. The same is true for new organic production methods that have developed in the meantime. But there are also situations where farms or buildings cannot be adapted for example because they are located inside villages, in mountains or simply subject to strict building restrictions. Similar difficulties could continue to exist as regards climate (catastrophes), the development of local markets and the need to continue producing both organically and non-organically on the same holding, etc. Taking all these developments and difficulties into account we need to consider which exceptions, and under which conditions, need to be kept in the new rules.

### Question 1: The current rules allow the following exceptions to help farmers to start or continue organic production when confronted with climatic, geographic or structural difficulties. For each of these exceptions, do you agree that they are kept, possibly under stricter conditions?

(Art. 22(2)(a) of Council Regulation 834/2007)

	Yes, this exception should be kept	Yes, this exception should be kept, but stricter limiting conditions should be introduced	No, this exception is no longer needed	No opinion
Tying of cattle in stables that were built before the current rules started applying (Ann. I.B.6.1.5. of Council Regulation 2092/91) (optional)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Tying of cattle in stables in case of small farms (Ann. I.B.6.1.6. of Council Regulation 2092/91) (optional)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Several exceptions for the housing of cattle, pigs, poultry and horses in stables that were built before the current rules started applying (Ann. I.B.8.5.1. of Council Regulation 2092/91) (optional)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Keeping organic and non-organic beehives at the same farm (Ann. I.C.1.3. of Council Regulation 2092/91) (optional)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Producing on the same farm organic and non-organic perennial (e.g. fruit trees) crops of the same species/variety (Ann. III.A.1.3. of Council Regulation 2092/91) (optional)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Producing on the same farm organic and non-organic crops of the same species/variety in case of research (Ann. III.A.1.3. of Council Regulation 2092/91) (optional)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Producing on the same farm organic and non-organic seeds, seedlings and vegetative propagating material (e.g. seed potatoes), of the same species/variety (Ann. III.A.1.3. of Council Regulation 2092/91) (optional)

Managing on the same farm organic and non-organic grassland for grazing organic COWS (Ann. III.A.1.3. of Council Regulation 2092/91) (optional)

Producing on the same farm organic and non-organic livestock of the same species in case of research (Ann. III.A.2.4. of Council Regulation 2092/91) (optional)

Allowing simultaneous collection of organic and non-organic milk (Ann. III.B.3. of Council Regulation 2092/91) (optional)

Allowing simultaneous collection of organic and non-organic eggs and egg products (Ann. III.B.3. of Council Regulation 2092/91) (optional)

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Question 2: The current rules allow the following exceptions to farmers that can not find organic feed, seeds, live animals or other farm input on the market. For each of these exceptions, do you agree that they are kept, possibly under stricter conditions?**

(Art. 22(2)(b) of Council Regulation 834/2007)

Yes, this exception should be kept

Yes, this exception should be kept, but stricter limiting conditions should be introduced

No, this exception is no longer needed

No opinion

Use of non-organic poultry for future egg laying or meat production on condition that they are brought onto the organic farm as chicks less than three days old (Ann. I.B.3.6.6. of Council Regulation 2092/91) (optional)

Use of non-organic 18 week old poultry for future egg laying on condition that they, before they are brought onto the organic farm, have been fed and treated for diseases according to the organic rules (Ann. I.B.3.7. of Council Regulation 2092/91) (optional)

Feeding organic animals with partly non-organic feed (Ann. I.B.4.8. of Council Regulation 2092/91) (optional)

Bringing non-organic bees into organic beehives (Ann. I.C.3.5. of Council Regulation 2092/91) (optional)

Bringing non-organic queen bees into

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

organic colonies (Ann. I.C.3.6. of Council Regulation 2092/91) (optional)  
 Use of non-organic seed and seed potatoes for crop production (Art. 6(3) of Council Regulation 2092/91) (optional)  
 Use of non-organic beeswax in organic beehives (Ann. I.C.8.3. of Council Regulation 2092/91) (optional)

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Question 3: The current rules allow the following exception to farmers to solve a specific management problem. Do you agree that this is kept, possibly under stricter conditions?**

(Art. 22(2)(d) of Council Regulation 834/2007)

Yes, this exception should be kept

Yes, this exception should be kept, but stricter limiting conditions should be introduced

No, this exception is no longer needed

No opinion

Keeping cattle, pigs and sheep for fattening indoors in the final phase before slaughter (Ann. I.B.8.3.4. of Council Regulation 2092/91) (optional)

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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**Question 4: The current rules allow the following exceptions to help farmers to continue organic production when confronted with catastrophes. For each of these exceptions that should only be used during or after catastrophic circumstances, do you agree that they are kept, possibly under stricter conditions?**

(Art. 22(2)(f) of Council Regulation 834/2007)

Yes, this exception should be kept

Yes, this exception should be kept, but stricter limiting conditions should be introduced

No, this exception is no longer needed

No opinion

Bringing non-organic animals onto an organic farm (Ann. I.B.3.6. and I.C.3.5. of Council Regulation 2092/91) (optional)  
 Feeding organic animals with non-organic feed (Ann. I.B.4.9. of Council Regulation 2092/91) (optional)  
 Feeding of organic bees with organic honey or organic sugar (Ann. I.C.5.2. of Council Regulation 2092/91) (optional)

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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**Question 5: The current rules allow farmers that can not find organic breeding animals on the market, to bring non-organic breeding animals onto the farm under strict conditions. The animals should only be used for breeding purposes, be female and have not yet given birth (nulliparous). There is a yearly maximum of 10 % for horses, donkeys, cattle, buffaloes and bison, and of 20 % for pigs, sheep and goats. Do you agree to make the conditions stricter?**

(Annex I B.3.8 of Council Regulation 2092/91)

This exception, like most of the others, is linked to the non-availability of organic alternatives. When these rules first applied to all farmers, the need for this exception was clearly identified. In the meantime a market for organic animals has been established as concluded by a research study of 2007 carried out by a consortium of organic research institutes ([www.organic-revision.org](http://www.organic-revision.org)). But sufficient organic breeding animals might still not be available for all breeds, always and everywhere.

In view of this development do you agree to reduce the yearly maximum of non-organic breeding animals that may be brought onto a farm to 5% for horses, donkeys, cattle, buffaloes and bison, and to 10% for pigs, sheep and goats? (The other conditions remain the same.)

(optional)



Yes



No, keep current percentages



No, reduce even further



No opinion

## Section 2: Management of exceptions

Apart from considering which exceptions may be kept in general as treated in section 1 of this questionnaire, we also need to analyse carefully who decides when, where and by whom individual exceptions may be used. Moreover, there is also a need to study which information the control bodies need to be in a position to verify, if the exceptions have been used properly. Under the current rules most exceptions, the so-called derogations, are granted by control bodies and in some cases by central authorities of the Member States. Under the new rules the exceptions should in principle no longer be granted by control bodies. This was to reduce the administrative burden both for farmers and their control bodies, to avoid conflicts of interest and to make sure that there is no discrimination of farmers in the same situation but subject to different control bodies. The question 'who decides' basically means considering whether Member State authorities, in addition, should judge and decide the need for exceptions at local level. The options to choose from then become: either opening the possibility for exceptions to all farmers in the EU and the 'farmer decides himself', or, Member States need to decide for certain exceptions when, where and under which conditions they may be used. In the latter case the 'Member State authority is obliged to authorize' the use of the exception. In addition there is the need to examine whether farmers should notify to their control body and record supporting evidence when using exceptions.

**Question 6: In case the exceptions analysed under section 1 are kept, we would like to know for each of these exceptions who should, in your view, take the decision, if it can be used. In addition**

**we would like to know your opinion on the need for notification and special recording obligations. (you can choose more than one answer)**

	Farmer decides himself	Authorisation by Member State authority needed	Farmer shall notify using this exception	Farmer shall record documented evidence for using this exception	No opinion
Tying of cattle in stables that were built before the current rules started applying (Ann. I.B.6.1.5. of Council Regulation 2092/91) (optional)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tying of cattle in stables in case of small farms (Ann. I.B.6.1.6. of Council Regulation 2092/91) (optional)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Several exceptions for the housing of cattle, pigs, poultry and horses in stables that were built before the current rules started applying (Ann. I.B.8.5.1. of Council Regulation 2092/91) (optional)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Keeping organic and non-organic beehives at the same farm (Ann. I.C.1.3. of Council Regulation 2092/91) (optional)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Producing on the same farm organic and non-organic perennial (e.g. fruit trees) crops of the same species/variety (Ann. III.A.1.3. of Council Regulation 2092/91) (optional)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Producing on the same farm organic and non-organic crops of the same species/variety in case of research (Ann. III.A.1.3. of Council Regulation 2092/91) (optional)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Producing on the same farm organic and non-organic seeds, seedlings and vegetative propagating material (e.g. seed potatoes), of the same species/variety (Ann. III.A.1.3. of Council Regulation 2092/91) (optional)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Managing on the same farm organic and non-organic grassland for grazing organic cows (Ann. III.A.1.3. of Council Regulation 2092/91) (optional)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Producing on the same farm organic and non-organic livestock of the same species in case of research (Ann. III.A.2.4. of Council Regulation 2092/91) (optional)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Allowing simultaneous collection of organic and non-organic milk (Ann. III.B.3. of Council Regulation 2092/91) (optional)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Allowing simultaneous collection of organic and non-organic eggs and egg products (Ann. III.B.3. of Council Regulation 2092/91) (optional)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Use of non-organic poultry for future egg laying or meat production on condition that they are brought onto the organic farm as chicks less than	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

three days old (Ann. I.B.3.6.6. of Council Regulation 2092/91) (optional)

Use of non-organic 18 week old poultry for future egg laying on condition that they, before they are brought onto the organic farm, have been fed and treated for diseases according to the organic rules (Ann. I.B.3.7. of Council Regulation 2092/91) (optional)

Feeding organic animals with partly non-organic feed (Ann. I.B.4.8. of Council Regulation 2092/91) (optional)

Bringing non-organic bees into organic beehives (Ann. I.C.3.5. of Council Regulation 2092/91) (optional)

Bringing non-organic queen bees into organic colonies (Ann. I.C.3.6. of Council Regulation 2092/91) (optional)

Use of non-organic seed and seed potatoes for crop production (Art. 6(3) of Council Regulation 2092/91) (optional)

Use of non-organic beeswax in organic beehives (Ann. I.C.8.3. of Council Regulation 2092/91) (optional)

Keeping cattle, pigs and sheep for fattening indoors in the final phase before slaughter (Ann. I.B.8.3.4. of Council Regulation 2092/91) (optional)

Bringing non-organic animals onto an organic farm (Ann. I.B.3.6. and I.C.3.5. of Council Regulation 2092/91) (optional)

Feeding organic animals with non-organic feed (Ann. I.B.4.9. of Council Regulation 2092/91) (optional)

Feeding of organic bees with organic honey or organic sugar (Ann. I.C.5.2. of Council Regulation 2092/91) (optional)

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Question 7: The current rules allow the use of micro-organisms for improving the condition of the soil as well as the availability of nutrients in the soil and for crops. But the need for such use of micro-organisms has first to be recognized by the control body. In line with the management of the exceptions dealt with in earlier questions, we would like to know, who should, in your view, take the decision whether micro-organisms can be used for this purpose.**

(Annex I A.2.4. of Council Regulation 2092/91)

Shall it be obligatory that the use of micro-organisms for this purpose is authorised by the Member State authority? (optional)

Yes

No, the use of micro-organisms for this purpose shall be allowed under the same conditions to all farmers in all Member States, without the need for Member State authorities to impose further conditions

No, as under option 2 but the farmer shall notify the use to his control body and record documented evidence supporting the need for using micro-organisms

No opinion

### Section 3: Clarifications

Some terms of the current rules have led to different interpretations. Under the new rules they need to be clarified to avoid confusion and misinterpretation of future applicatory rules.

#### Question 8: The current rules have led to confusion on whether poultry may be kept in stables with several layers of flooring area. If you think it is necessary to clarify these rules, how, in your view, should it be regulated?

(Annex I.B. 8.4.1. of Council Regulation 2092/91)

By some, this is interpreted as meaning that all poultry must be kept on the floor only. In other words multilayer stables in which chicken can move freely between different layers of flooring area are not allowed in organic farming. This question is important as multilayer systems could allow a much higher number of poultry per ground surface, which makes the farm more profitable.

Do you think it is necessary to regulate the construction of organic poultry stables? (optional)

- Yes, they should contain only a ground floor (multilayer systems should not be allowed)
- Yes, they may not contain more than 2 layers
- Yes, they may not contain more than 3 layers
- No, in which case they may contain not more than 4 layers (as is the limit for non-organic farms)
- No opinion

#### Question 9: The current rules have not fixed a minimum slaughter age for slow-growing poultry types. If you think it is necessary to clarify these rules, how, in your view, should it be regulated?

(Annex I.B. 6.1.9. of Council Regulation 2092/91)

The current rules are that poultry is slaughtered at a fixed age. But this does not apply to slow growing poultry types, meaning that such chickens can be slaughtered at younger ages. The reason for higher slaughter ages for organic poultry is to give the animals enough time to grow. A slower growth rate gives better guarantees for respecting the natural needs of the animals, but it also makes production more costly.

Is it necessary to specify the slaughter age for all poultry types? (optional)

- Yes, the slaughter age should be the same for all poultry types
- No, the slaughter age for slow growing types should be left open (should not be regulated)
- No opinion

#### Question 10: The current rules ban carrying out certain livestock management practices 'systematically' without being clear on what systematically means. If you think it is necessary to clarify these rules,

## how, in your view, should it be regulated?

(Annex I.B. 6.1.2. of Council Regulation 2092/91)

Operations that may not be carried out systematically are: attaching elastic bands to tails of sheep, cutting tails, cutting teeth of piglets, trimming beaks of chicken, dehorning of cattle, etc. These practices are used in non-organic farming to avoid further suffering of animals caused for instance by fighting between or suckling on other piglets, feather picking of chickens or fighting between cows. But a lot has been learned on how to avoid the need to use these practices in organic farming. For example by choosing better breeds, fodder or by otherwise changing the handling of the animals.

Do you think further clarification of the term 'systematically' is needed? (optional)



No, keep the term 'systematically' as it is now



Yes, keep the term 'systematically', but clarify that these operations may only be carried out on a limited number of individual animals and on condition that proper anaesthesia is applied



No opinion

**Question 11: The current rules allow reducing the period of 2 years for converting land to be used by organic pigs and poultry to 6 months, where the land has not been treated in the 'recent past' with plant protection products (for instance pesticides) or fertilizers not allowed in organic farming. The term 'recent past' is not defined. If you think it is necessary to clarify these rules, how, in your view, should it be regulated?**

(Annex I.B. 2.1.2. of Council Regulation 2092/91)

Do you think there is a need to clarify the term 'recent past' in this context? (optional)



No



Yes, the 'recent past' should be replaced by 'during the last 6 months'



Yes, the 'recent past' should be replaced by 'during the last year'



Yes, the 'recent past' should be replaced by 'during the last 2 years'



No opinion

**Question 12: The current rules use the term 'extensive husbandry' several times, determining for instance that only animals from extensive husbandry may graze organic land, or organic animals may only graze together with non-organic animals from extensive husbandry. The definition of the term 'extensive husbandry' was regulated by other rules, and the organic rules simply took this definition. But these rules have been repealed, so there is no longer a definition for this term in the organic rules. If you think it is necessary to clarify these rules, how, in your view, should it be regulated?**

(Annex I B. 1.7. and Annex I B.1.8. of Council Regulation 2092/91)

In the particular case land and animals are separated from non-organic land and non-organic

animals to reduce the risk of contamination with for example heavy metals and antibiotics. These substances are also present in manure of animals. They can contaminate land subsequently grazed by organic animals. This is the reason why only animals and manure from 'extensive husbandry' are allowed on organic land.

If you consider that a definition of the term 'extensive husbandry' is needed which option do you prefer? (optional)



'Extensive husbandry' means a farming system in which the stocking density is such that the animals do not produce more than 170kg nitrogen /hectare/year



'Extensive husbandry' means a farming system that is not heavily reliant on veterinary and feed inputs not permitted in organic agriculture.



No opinion

### Question 13: The current rules for the maximum amount of nitrogen to be used on a farm have led to different interpretations. If you think it is necessary to clarify these rules, how, in your view, should it be regulated?

(Annex I A.2.2. and Annex I B. 7.1 of Council Regulation 2092/91)

The amount of nitrogen that can be used on a farm determines to a large extent how much crop can be produced. In organic farming plants should be fed through the soil and the organisms living in the soil, not directly by mineral nitrogen fertilizers that directly feed the plant. This is the reason why only manure and products derived from manure and other organic matter are allowed as nitrogen sources. In addition there is an absolute ban on spreading more manure than the equivalent of 170 kg of nitrogen per year and hectare farm land. This is to avoid pollution of ground and surface water. But it is not clear which products are covered by the term manure, or in other words which nitrogen sources should be included in the 170 kg limit. The distinction is also important for certain crop production, such as vegetables which often require more fertilization and use therefore various other natural nitrogen sources.

Shall the upper limit of nitrogen to be used on a farm be fixed at 170 kg of nitrogen per hectare farm land per year? (optional)



No, no limitation at all



Yes, but this limit shall only apply to the use of farmyard manure



Yes, but this limit shall only apply to the use of farmyard manure, dried farmyard manure and dehydrated poultry manure, composted animal excrements, including poultry manure, composted farmyard manure and liquid animal excrements (slurry, urine, etc). Specialised crop production, such as vegetable production will not be affected by this limit.



Yes, and this limit shall apply to all nitrogen applied to the land, independent of its source



No opinion

### Question 14: According to the new rules, the controls shall be based on a risk based control system.

This point is important as the control resources should be used to inspect where the risks are highest. The question is, if visiting and inspecting, each year, on the spot all premises of all farms, processors, importers, etc. regardless of their size and types of handling, is the most effective control system.

Do you think that the verification of compliance at least once a year should in all cases include an inspection visit on the spot? (optional)



Yes



No



No opinion

## General comments

**Question 15: If you have further comments and suggestions on any of the above questions or subjects not treated by these questions please feel free to communicate them to us.** (optional)

For the Fairtrade sector the following were highlighted as important areas for input into the new regulation. These include:-

### 1) The new Import Regulation.

There are a number of areas where the consideration of

- a. fairtrade producers and
- b. fairtrade importers

could be affected by the new regulation. It should first be stated that the new import regulations are a major improvement from the system that has been running under article 11.6 of 2092/91.

This said, there are a number of areas that need to be clarified with the Commission.

- a) The new regulation requires that Certification Bodies (CBs) that operate in third countries must be approved by a central body within the Commission before they will be allowed to certify products in third countries that can then be imported into the EU. **We would recommend that the Commission makes a clear communication on the following:-**
  - i. how the CBs will be approved ?
  - ii. What information they need to provide to become approved ?
  - iii. What procedure and or timeframe this approval will take ?
  - iv. If any costs are associated with the approval what they are?
- b) The new regulation seems to favour certification bodies based in the EU as opposed to those based in third countries which could force fairtrade importers to use the EU based certifiers at the expense of third country certification bodies. **We recommend that if the Certificate of Inspection is used, then it should be used by all. If not then this should also apply to all.**
- c) It is not clear how the status of equivalence will run in relation to a product certified in a third country by a local third country CB, if the home (EU) CB does not grant equivalence to the certification of the product from the third country. Currently the understanding is that the product can still be marketed in the EU under the EU logo, but the certified status of the importer or seller is not clear in relation to their home Certification Body. **We would recommend that the Commission publishes some guidelines on how it sees the certification status**

**of the operators of private CBs, that meet the EC regulation requirements but not the private CB's standards. Is operator still certified if they choose to only use the EC logo instead?**

- d) It is also not clear, how the accreditation bodies of CBs will consider this regulation. It could be interpreted as a delegation of the certification function and therefore require that the EU CBs receiving the product (via their operators) should do formal assessment of the:-
- a. Standards
  - b. Inspection / Certification protocols

There are potential implications from this. It is of course correct that private label owners should re-assess the standards of other certification bodies to ensure equivalence. However, the protocols are a different matter as these are usually different dependent on the CB. If one CB can effectively insist on the use of (only) its own protocol from which to judge (a competitor) then trade could become hampered. **We would recommend that the EC makes public the reports of those CBs on the approved list and that any concerns that accreditation bodies may have will be addressed in this report so ensure continuity of trade.**

## **2) Small Holder Grower Group Certification**

From 2000 to 2003 IFOAM worked to put together a set of workshops to help smallholder producers to develop a form of certification using Internal Control Systems. The system was developed because the European and American regulations require 100% inspection of the individual farm units. This being the case, a cooperative with 2,000 or more farmer members would need to have each farm unit inspected. This was not viable especially as some countries do not have access to local certification bodies, making certification only achievable via international certification bodies which makes it much more expensive.

The system developed over three years of work built a good level of understanding within the European Union's member state such that the EC was able to put a guidance paper which allowed certifiers to use this system that has greatly benefited producers over the last few years.

The issue is that the EC should formalise the guidance document it put together and incorporate this into Annex III as a formal inspection tool for the certification bodies. This is very important as Group Certification and Internal Control Systems need to be formally recognised.

**We would recommend that the Commission formally recognises Grower Group Certification (using Internal Control Systems) as an inspection and certification format under the section for controls.**

**We would also recommend that the use of risk assessment by the certification bodies should be made clear so that there is no confusion and one CB does not come back and disallow another CB's assessment of risk.**

### 3) Risk Assessment

This is a very positive and development from the Commission. One of the consultation questions relates to the need (or not) to have an annual physical (on the spot) inspection.

Risk Assessment seems to be a key focus in this regulation and we want to be clear that third country operators or products are not given an unfairly high risk category under the inspection system. It is clear that some view third country organic products as being in a high risk category.

It is not clear how risk is to be categorised, but the risk is that some inspection bodies may begin to threaten to see some operators more than once a year while reducing the frequency of visits for others, without being transparent about how they analysed or categorised the risks.

There needs to be some consistency and we would like the Commission to be aware that we as those operating and trading with third countries have a clear position on this and believe that they are already operating under a very credible system.

To aid this understanding **we would recommend that the Commission works with key stakeholders and prepares a set of guidelines on risk assessment and its use both for the benefit of operators and for the certification bodies.**

### 4) Regulation 882

With regards to this regulation and its potential impact on the certification system, we are concerned about the following:-

- a) The reference to a list of high risk products. **We would recommend that the Commission clarifies the following:- What would this mean for organic – GMOs or are we talking about aflatoxins in nuts for example. If it is the latter, will the organic status be removed if aflatoxins are found in the product? Are there going to be specific aflatoxin levels for organic nuts?**
- b) Article 3.2 of regulation 882 states:- “Official controls shall be carried out without prior warning, except in cases such as audits where prior notification of the Feed or Food business operator is necessary. Official controls may also be carried out on an ad hoc basis”. **We would recommend that the Commission clarifies its position on announced or unannounced inspections.**  
This would obviously have implications for third country inspections.
- c) Art 3.7 of Reg 882 states:- If during a check carried out at the place of destination or during storage or transport, a Member State establishes non-compliance, it shall take the appropriate measures, which may include re-dispatch to the Member State of origin. **We would recommend that the Commission clarifies the following:-**
  - **Could this apply to organic consignments?**
  - **What is meant by non-compliance?**
  - **If it does relate to organic, will it be only the MS that can require re-dispatch or will CBs be part of this also?**

**- If Non-compliances can be established at storage, then possible for this to come up from organic inspections in which case will the CB have the right to refuse the product?**

Additionally we have some other feedback from other Fairtrade stakeholders which we would also urge you to consider. These are:-

1. The update of Annex VI C should not include organic products available as "Organic & Fair Trade": i.e. Nutmeg, Green pepper.
2. Do not charge a fee too high for CBs extra-EU Accreditation.
3. Do not officially consider, on risk evaluation, the "Third World origin/import" of products/raw material as high risk for irregularity
4. Declare officially that Internal Certification System is acceptable for Certification purpose in Developing Countries.
5. Do not allow differentiation, among EU countries, on certification of Raw material Lots (I.e. in Italy any lot must be sold with a CB certificate, not in other EU country and so there are difficulties in transactions)
6. Do not allow differentiation, and state clearly, what must be declared on final consumer product label (i.e. only in Italy, any label must be authorised and the n° of authorisation printed on label).
7. On label of imported products must be printed the **CB Name** of producer, exporter, importer or seller (what about if the seller is in a different European country of importer?) Will the CBs on the approved list who are from third countries be given an EU Code like the EU CBs?

**Question 16: How did you perceive the questionnaire?** (optional)



Expectations met



Expectations partly met



Expectations not met