

Commission staff working paper

Information & consultation on key-ideas to reform Council Regulation (EEC) No 2092/91

Context:

The Commission adopted the Communication on the European Action Plan for Organic Food and Farming (EAP) in June 2004. In its conclusions of October 2004, the Council invited the Commission to advance on the basis of concrete measures with the view to assure simplification and overall coherence. The text in *Italics* below represents the regulatory Actions of the EAP (with reference to their number).

The current Regulation on organic farming is a comprehensive Council regulation, containing very detailed implementing rules in the Annexes. The Council Regulation itself is not explicit concerning the objectives and principles of organic production, although most of the underlying principles and production rules already exist in some form in the Annexes.

The EAP undertakes to make the Regulation more transparent by defining basic principles of organic farming, among others in order to render its public services explicit. The question has been raised on extending the Regulation to objectives such as “assuring a high protection of human health”, facilitating “fair trade” or privileging local production.

The highly complex nature of the detailed provisions and the decision making procedure are often seen to lack transparency or even to hamper an economically viable development of organic farming. It is expected that clarity of objectives and principles will also facilitate equivalency discussions with third countries. Further harmonisation would contribute to fair competition, the free circulation of organic produce and reduce the trade hampering effect of differing national and private standards. But past experience has shown that reaching agreement in Council on further harmonisation can be very difficult.

Key questions for the reform of the Regulation:

1. SCOPE:

EAP Action 10:

Complete and further harmonise the standards for organic agriculture by;

- *establishing the list of permitted additives processing aids for processed animal products*
- *considering whether to establish specific standards for organic wines*
- *improving the standards relating to animal welfare*
- *considering the need for extending scope to other areas such as aquaculture*
- *considering the need for improving standards relating to the environment (use of energy, biodiversity, landscape and others).*

- To what extent, if any, should the scope of the Regulation cover further food or non-food products?
- Is there a need to extend the organic rules to regulating, inspecting and certifying the preparation and sale of organic meals to the final consumer? Would there be other means, for example rules on advertising, to regulate organic claims made by restaurants, hospitals, canteens or bars?
- Should the reformed Regulation cover products for ‘export’ (up to border)?

2. SIMPLIFICATION AND DEFINITION OF OBJECTIVES AND PRINCIPLES OF ORGANIC PRODUCTION:

EAP Action 8:

Making the regulation more transparent by defining the basic principles of organic agriculture.

The following objectives are often identified as the most relevant:

- ⇒ protection of consumers’ interest, ensuring consumer confidence and avoiding misleading labelling;
 - ⇒ the development of organic production while taking account regional differences in climate, farming conditions and the stage of development of organic farming;
 - ⇒ fair competition and the effective functioning of the internal market in organic products;
 - ⇒ a high level of protection of the environment, biodiversity and natural resources;
 - ⇒ respect high animal welfare standards and fully meet animals’ species-specific needs;
 - ⇒ respond to demand for food produced by natural (or closely comparable with natural) processes and substances.
- Is the above list of objectives comprehensive?

“Regional flexibility” would allow for local standards adapted to regional conditions and stages of development. It would imply giving discretion to national authorities to adopt rules applying on (regions within) their territory. These rules may be both more or less strict. However, such variation in standards risks hampering the free circulation of final products and ingredients used in organic production, that are produced under different “regional standards”.

- Should “regional flexibility” become a principle? If so, should designated control bodies also be allowed to set their own regional standards? What mechanisms do you see to assure continued access to the Community and national logos, even if produced under slightly different rules?

EAP Action 11:

Establishing an independent expert panel for technical advice.

- How could the establishment of an ‘expert panel’ providing non-binding advice contribute also to rationalising and simplifying the regulatory work?
- Would a wider use of criteria as laid down in the “Codex Alimentarius Guidelines”, for example for the inclusion of substances, facilitate the regulatory work?
- Do you see other possibilities to rationalise the regulatory mechanism?

3. LABELLING AND ADVERTISING:

Promoting a “single organic standard” (the Community standard) is important to improve consumer recognition and confidence, to assure further development of organic farming and a smooth functioning of the internal market in organic produce.

- Do you see other means to increase consumer awareness and recognition of organic produce?
- Claims of “better, stricter or higher standard organic” are often seen as confusing and reducing consumer confidence. What policy would you envisage for claims directly on organic products or in their advertising or in publicity material?

Currently food products containing between 70 and 95 % of the agricultural ingredients from organic origin may make references to the organic production method on the label.

- Do you still see a need to maintain this food category?

4. FUNCTIONING OF THE INTERNAL MARKET AND CONTROLS:

EAP Action 13:

Improve the performance of the inspection bodies and authorities by introducing a risk-based approach targeting operators presenting the highest risk in terms of fraudulent practices, and by requiring cross inspections under Council Regulation (EEC) N° 2092/91.

EAP Action 16:

Ensure better coordination among inspection bodies and between inspection bodies and the enforcement authorities under Council Regulation (EEC) 2092/91.

EAP Action 17:

Develop a specific accreditation system for inspection bodies authorities under Council Regulation (EEC) N° 2092/91.

In this context Regulation (EC) No 882/2004 of the European Parliament and of the Council on official food and feed controls (OFFC) which enters into application on 1 January 2006 is of

relevance. OFFC covers organic farming. Member States should include organic production in their multi-annual national control plans and fulfil the requirements of mutual assistance. The risk-based approach is a fundamental concept of the OFFC. It requires multi-annual national control plans to be notified to the Commission who may ask for amendments and use them to guide Community inspections.

With respect to tightening the control system its requirement on impartiality and freedom of any conflict of interest of designated control bodies is particularly relevant¹. In the framework of delegating certain tasks from the competent authorities to designated control bodies, the following issues are of particular relevance; controlling misleading labelling and advertising claims (see above), conditioning of standard setting activities, mutual recognition between control bodies and access to private logos.

- Do you see any control requirements that are specific to organic farming and should remain to be regulated under the reformed Regulation? If so, which ones?

5. INTERNATIONAL TRADE:

EAP Action 19:

Amend Council Regulation (EEC) No 2092/91 on organic farming, replacing the current national derogation for imports by a new permanent system making use of technical equivalency evaluations by bodies assigned by the Community for that purpose. This could include, following appropriate consultations, developing a single and permanent Community list of inspection bodies recognised as equivalent for their activities in third countries not already on the equivalency list.

Continue to ensure that the definition of equivalence with third countries takes into account the different climate and farming conditions and the stage of development of organic farming in each country.

Upon entry into force of this system, offer all imported products access to the EU logo

EAP Action 20:

Step up efforts towards global harmonisation and development of a multilateral concept of equivalency based on the Codex Alimentarius guidelines in co-operation with Member States, third countries and the private sector.

EAP Action 21:

Reinforce recognition of EU organic farming standards and inspection systems in third countries by obtaining a negotiation mandate from the Council.

The current import regime by derogation under Article 11.6 is ending on 31 December 2006. The EAP proposes to replace this derogation by a list of Community control bodies approved for their control activities in third countries. Products inspected by thus listed control bodies may be imported into the EU. With a view to facilitating exports, the reformed Regulation could empower the Commission to negotiate agreements with third countries to secure recognition of EC organic production standards in the third country.

¹ OFFC Art. 5(2)(b)(iii) 'The competent authority may delegate specific tasks to a particular control body only if there is proof that the control body is impartial and free from any conflict of interest as regards the exercise of the tasks delegated to it.'

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- What role do you see for third party assessment in approving control bodies for the purpose facilitating imports of organic products?
- Would you envisage other measures to facilitate import or export of organic produce?