



International Federation of Organic Agriculture Movements –
EU Regional Group

The Revision of EC Regulation 2092/91

**Approved by the IFOAM EU Group
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Revision of EC Regulation 2092/91

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Summary

EC Regulation 2092/91 has been of great importance to the growth of the organic sector in Europe. In the fifteen years since the Regulation came into force our sector has changed dramatically. The IFOAM EU Group fully supports revising the “organic Regulation” to ensure it better reflects the many changes of the past and can cope with the dynamics of the future.

This revision may be one of the most important steps undertaken for years and will influence the whole sector of organic farming, processing and trading. Full involvement of all stakeholders in the organic sector is therefore critical. We urge the Commission to invest the time and effort needed to do the job well.

In this document, the IFOAM EU Group wishes to point out key topics we feel must be addressed in the revision of the organic Regulation.

1. Principles

We strongly support the Regulation starting from principles. Principles must guide the development of the Regulation to ensure it remains appropriate for many years to come. The principles used should be those of IFOAM and as further elaborated by the Organic Revision project.

2. Structure and Scope

The term ‘organic’ and its equivalent in all EU languages must be protected whenever applied to agricultural products or products derived from agricultural raw materials. Generally we do not wish the EU Regulation to set detailed standards for areas outside its current scope.

We support the outcome of the Organic Inputs Evaluation Project and urge that the conclusions being proposed by this project are incorporated in the revision.

The Regulation is widely used by field operators. The future style in which it is written should be much more accessible so that it can function as both a legal

text as well as an operations manual. Alternatively a code of best practice needs to accompany the Regulation.

Now is also the time to consolidate all references to a particular topic which have, over time, been added to different parts of the Regulation.

3. Inspection and Certification

An important objective of the new regulation is to ensure greater harmonisation in the way inspection and certification bodies operate. This should not be left to the discretion of member states but must follow a common code of practice.

We welcome the move towards redefining inspection requirements following a risk-based approach.

4. Annex VI/Processed foods

Processed foods made from organic ingredients are increasingly important for the organic market. Common criteria for assessing permitted processes and inputs must be established and used to draw up a common list of inputs and processes. On-going lack of clarity of a number of issues must be resolved, such as ion-exchange, ingredients with technological functions and the possibility to label dietary food from organic sources.

5. Derogations and Regional Variation

The quantitative, uniform approach of the current Regulation has led to many derogations to try to cope with the wide range of conditions in the EU. The solution we propose is to allow for the regional variation which occurs within the EU. Care must be taken that this does not threaten the level playing field within the EU.

We do recognise the need for derogations when they encourage movement towards desired organic practice. Deadlines must be set on the basis of consultation, research and achievability. Member states should provide interim evidence of efforts being made to comply with deadlines.

6. Internal market

We stress the importance of private and national labels for stimulating the sector to develop ever better organic practice, to expand into new production areas and for achieving and keeping local and regional market penetration. Private labels must build on the common baseline set by the organic Regulation. Due care must be given to prevent private labels from becoming a form of market protection.

7. GMOs

GMO contamination poses a significant threat to the whole organic sector. In previous position papers, we have rejected specific organic thresholds for GMOs which would make our sector bear the costs of pollution created by others. We maintain that the Commission is treading dangerous ground in the way it is currently interpreting the legislation on GMOs. The issue of liability must be addressed, as must coherent labelling rules.

8. Animal Regulation

The animal Regulation is an important and complex part of the organic Regulation. Since its introduction in 1999 it has undergone continuous change. We consider some parts to be overregulated, while other parts are missing clarity.

We stress the need to thoroughly review the animal Regulation, bearing in mind many of the above comments on scope, style, etc. The current timeframe we must operate to does not allow us to provide detailed comments at present. We do intend in the future to provide comprehensive input for revision of the animal Regulation.

Table of content

Summary	1
A. Introduction.....	5
B. Detailed Comments	7
1. Principles	7
2. Scope and Structure.....	8
2.1. Scope	8
2.2. Structure and order of the articles.....	8
2.3. Structure and order of the annexes	9
2.4. Social, animal welfare, environment, biodiversity	9
2.5. Readability.....	10
2.6. Under- and over-regulated areas	10
3. Inspection and Certification	11
3.1. Process based approach.....	11
3.2. Encourage improvement	11
3.3. Risk-based inspection and group certification.....	11
3.4. Unworkable areas.....	12
3.5. Consistency between member states	12
3.6. Organic HACCP	12
3.7. Fraud	12
4. Annex VI/Processed food	13
4.1. Processing of animal products.....	13
4.2. Regulation for wine processing.....	13
4.3. Organic ingredients with technological functionalities	13
4.4. Ion exchange resins	14
4.5. Infant's formula and other dietary foods.....	14
5. Derogations and Regional Variation	15
6. Functioning of the internal market	17
7. GMOs	17
8. Animal Regulation	18

A. Introduction

EC Regulation 2092/91 has been of great importance to the growth of the organic sector in Europe. In the fifteen years since the Regulation came into force our sector has changed dramatically. The IFOAM EU Group fully supports revising the “organic Regulation” to ensure it better reflects the many changes of the past and can cope with the dynamics of the future.

The reasons why the Regulation was originally enacted hold just as true today as it did in 1990 when it was being developed:

- to protect the consumer from fraudulent claims
- to protect the integrity of organic production
- to provide a level playing field for organic producers and for trade in organic products
- to facilitate support for (and therefore expansion of) a production system that is aligned to the CAP’s objectives

The main concerns that have been expressed over recent years include:

- There are no basic principles to provide a framework for assessing possible developments in the Regulation or for interpretation of texts.
- The Regulation is too detailed and concentrates on quantitative limits rather than process-related outcomes.
- The production standards operate as “one size fits all” which does not take into consideration the wide variation of climates or levels of development of the organic sector in different parts of the EU.
- Some standards are very strict and need many derogations but the time limits seem not to be supported by the necessary research and development.
- Member states have played little part in overseeing implementation of the time-limited derogations in the Regulation which has not encouraged the development of the sector.
- There is wide variability in the way member states control the functioning of inspection and certifying bodies.
- The products of organic farming go well beyond food but the Regulation limits it only to food/feed.
- The Regulation is written in a very legal style which is not appropriate for a document that is used as a standards manual by farmers, processors and advisers.

This revision may be one of the most important steps undertaken for years and will influence the whole sector of organic farming, processing and trading. It should set the framework of Organic Farming for the next 15 to 20 years. Full involvement of all stakeholders in the organic sector is therefore critical. Notwithstanding the Council's request of October 2004 to put forward proposals in the course of 2005, we stress that this timetable is both unrealistic and inappropriate. We therefore urge the Commission to invest the time and effort needed to do the job well, for the following reasons:

- The development of the very first organic Regulation took a number of years, with the subsequent Animal Regulation (Annex IB) taking 6 years of discussion. Even the European Action Plan for Organic Agriculture took over 18 months to develop. Finalising the Regulation and the action plan relied heavily on input from the private organic sector and will do so again. The full involvement of the stakeholders is essential and needs time.
- The Commission itself is funding a number of ongoing research projects which are intended to provide input for the revision of the organic Regulation. These include Organic revision project SSPE-CT-2004-502397; Organic Inputs Evaluation Concerted Action QLK5-CT-2002-02565; European Action Plan of Organic Food and Farming (Development of criteria and procedures for the evaluation of the EU Action Plan for Organic Agriculture) FP6-006591; Quality of low input food FP6-506538, new Wine-Project (start in 2006); International Taskforce for Harmonisation and Equivalence. Naturally the revision timeline should wait for the outcomes from these, the first arriving in early 2006. They will provide important input.
- The narrow scope of the questions raised in the Commission staff working paper (AGRI F5-2005-63529) demonstrate that much more thought must be put into what is required for a fundamental review of the organic Regulation.
- We recognise that this review will result in an amendment of the organic Regulation. However, due to its strategic significance and the need to ensure support of the sector, it is less a technical amendment and more a political decision process. It therefore needs the proper time for review, evaluation and stakeholder involvement.

In this document, the IFOAM EU Group wishes to point out key topics we feel must be addressed in the revision of the organic Regulation. For some of these topics we have in the past developed concrete proposals. Others are new, we raise the issues here and express our willingness to help the Commission, Parliament and Council address them comprehensively.

B. Detailed Comments

1. Principles

In the European Organic Action Plan the Commission refers to the need to structure the organic Regulation from basic principles. We strongly support this idea. Principles must guide the development of the Regulation to ensure it remains appropriate for many years to come.

At the IFOAM 2005 General Assembly 4 Principles of Organic Agriculture were approved:

- The principle of health
- The principle of ecology
- The principle of fairness
- The principle of care

These overarching principles are the roots from which organic agriculture grows and develops. They express the contribution that organic agriculture can make to the world and a vision to improve all agriculture in a global context.

We understand that the Organic Revision project will be recommending more precise principles based on those recently approved by IFOAM and following the broad stakeholder consultation which has taken place over the last year. The revision of the Regulation must take account of these principles, which will not be published until the end of November.

Each principle needs to be 'translated' into certifiable standards, and all standards proposed must contribute in some way to one or more of the principles.

2. Scope and Structure

2.1. Scope

We do not support the development of detailed rules for the non-food sectors where organic products are also used (catering/restaurants, pet food, textiles, cosmetics, cleaning products, wood and building materials and managed wild production systems). However, there should be a reference to these in the Regulation (in a similar way that aquaculture is currently) so that the term 'organic' and its synonyms in other languages is protected when used in conjunction with these products.

2.2. Structure and order of the articles

In general we agree with the general order and structure of the articles and propose the following as further improvements:

- **Definitions:** all definitions in the document should be moved into article 4;
- **Principles:** add a new article on organic principles probably after the current article 4;
- **GMOs:** All standards concerning GMOs should be consolidated into one article.
- **Regional variation:** Define what is considered to be regional variation and establish clear procedures how member states or other regional structures can apply for regional variations.
- **Criteria:** With the emphasis on principles and performance, clear criteria will be needed to ensure that there is consistent and correct interpretation and implementation of the less detailed production standards.
- **Procedures for amendments:** Establish clear procedures for amending existing and developing new areas in the Regulation. The procedures must at least guarantee stakeholder involvement in the process and the provision of adequate timescales for implementing changes.
- **Inspection bodies and competent authorities:** Requirements for these tend to be mixed up in articles 8, 9, 10 and 10a. They should be separated so that there are distinct standards for inspection bodies and clear instructions for competent authorities. Standards for inspection bodies must include inspection authorities, which should be subject to the same requirements. Standards for competent authorities must include procedures

for monitoring the inspection bodies to ensure consistent interpretation of the Regulation EU-wide. We stress that the “Guidelines for Inspection, 2001” drawn up in the past is not appropriate to reach this aim, as we have mentioned in the past.

- **Imports:** Article 11 should come before article 8. We also want to stress strongly that this part of the Regulation needs to be developed so that it facilitates trade more rather than act as a barrier to trade.

2.3. Structure and order of the annexes

As the Regulation has expanded, so have the annexes – but not necessarily in a logical order. This is an opportunity to group them better as follows:

- Standards for production (including processing)
- Standards for labelling
- Standards for inspection and certification

Within the already mentioned Organic Revision Project a slightly different, more hierarchical structure based on the current Regulation is being tested in the standards database. This is currently being set up and will be public at the end of 2005.

2.4. Social, animal welfare, environment, biodiversity

Organic principles refer to social rights, animal welfare and environmental conservation as these are (or should be) natural consequences of organic farming. Generally they are process-based outcomes and so should follow from proper production standards. However, we recognise that other influences may work against achieving the expected outcomes – market forces being one – and therefore additional measures may be needed to redress the balance. The IFOAM Basic Standards includes some of these.

At the moment, we do not advise adding further such requirements in the Regulation unless and until it changes to the more process/outcome approach. For example, much of the quantitative details could perhaps be removed from the livestock standards and be replaced by a requirement for a certain level of animal welfare, which must be inspectable and certifiable. The inspection would then verify the level of welfare and require changes to the system where they were found to be inadequate.

The EU has already recognised that organic farming is, in general terms, beneficial to the environment. There may be a case to add requirements for additional protection of sensitive habitats and endangered species as organic farming will not necessarily protect these. However, this must not happen on its own. Financial support must accompany any extra obligations to reflect the costs involved to producers and the benefits to society.

Social rights are the most difficult as the so-called 'free market' effectively penalises responsible practice and rewards exploitation. It is difficult to see how too many extra obligations on organic farming can be introduced in isolation. It will simply widen the price gap between conventional and organic foods, to the detriment of the organic market.

We recommend that the EU supports the development of these areas by funding research and development. This can be done in the new 7th EU Research Framework programme. Such work should be carried out in a participatory approach in cooperation with other interested institutions and NGO's.

2.5. Readability

Even experts find the Regulation difficult to read, follow and understand. Yet many inspection bodies use it verbatim as their standards manual and therefore expect their farmers to do this. Currently the legal language, structure and extensive cross-referencing all contribute to confusion.

We recommend that the Commission recognises the use of the Regulation as an operations manual. Its style and language must change so that it can double as both a legal text and operations manual. Alternatively, best practice guidelines need to be produced to fulfil this latter function.

2.6. Under- and over-regulated areas

In the existing Regulation the depth of detail varies significantly between sections, with poultry being an example for an over-regulated area. When revising the Regulation such differences should be levelled, always aiming to minimise details.

3. Inspection and Certification

3.1. Process based approach

The organic inspection system needs to stick to its process based approach. We therefore very strongly oppose the idea of introducing threshold levels, e. g. for pesticides. This would lead to an inspection and certification system based on analyses of the end product. This approach does not at all mirror the whole system of organic agriculture and therefore is not suitable.

3.2. Encourage improvement

The core reason for inspection is to ensure that products labelled as organic are produced according to the rules laid down in the Regulation. . At present, this is achieved by threatening operators with sanctions if they do not comply. There is no encouragement to improve their practice. It would be worthwhile discussing whether a more reward-based approach could be more effective.

3.3. Risk-based inspection and group certification

The current system of obligatory annual inspection dates from the time when the reliability of organic farms was still unclear. By now there are many farms that have been 100 % organic for years; these pose a low fraud risk. There are also many new producers and processors operating in new areas, where risks are potentially higher. We therefore fully support the idea of a risk-based inspection system.

It is a fact that inspection costs hamper the development of the organic sector. Small operators with simple preparations of organic products and small turnover just cannot afford the cost of getting certified and are lower risk by virtue of their size. This is leading to a two-tier 'organic' market. For these, the possibility of group inspection and certification, based on either internal control systems or participative guarantee systems, should be grounded in the Regulation. IFOAM has produced papers on both these systems.

3.4. Unworkable areas

There are some paragraphs in the Regulation which have been introduced with good will but in practise have not been improvements as they have turned out to be unworkable. Examples are Ann. III 7: sealed transport; Ann III A: documentation of daily sales; latest change 1336/2005 Ann III, 7a. These areas should be reviewed.

3.5. Consistency between member states

A more simple Regulation could lead to an easier inspection. As mentioned before, principles laid down in the Regulation would be an important aid to interpret the text. We must of course ensure that less detailed rules remain enforceable.

We must also make sure that the inspection and certification bodies work in a consistent way across the EU. The current system means that national control authorities operate in very different ways due to a lack of common guidelines or effort. We do not consider the application of Regulation (EC) 882/2004 will provide any further consistency as there will still be wide variation in the way member states implement it.

There needs to be expert, objective and unvarying monitoring of inspection bodies by the responsible authorities. IFOAM Accreditation could deliver guidelines for that. The idea of cross inspection, as mentioned in the Organic Action Plan, does not seem to be an appropriate approach.

3.6. Organic HACCP

It also needs to be discussed if the implementation of an organic HACCP could reduce fraud and mistakes amongst all operators (farmers, traders, processors). We refer to the outcomes of the EU funded Organic HACCP Project, which will make known its recommendations on this by the end of 2005.

3.7. Fraud

Fraud is a key issue which must be prevented or at least traced through inspection. We see a weakness in the existing Regulation in cases of frauds that involve many operators with different inspection bodies/in different countries.

There should be clear guidelines how such cases shall be dealt with. A step towards a more transparent system could be a common EU-wide code system for inspection bodies. A lot of misunderstandings are caused by the fact that each country uses a different code system.

4. Annex VI/Processed food

4.1. Processing of animal products

For a number of years now, Annex VI on the processing of animal products has been under review. The IFOAM EU Group notes an increasing uncertainty in the organic sector about what are accepted additives and processing aids for animal-based organic foods. Some of these products are produced with additive compounds that are typical for conventional products. The IFOAM EU Group is concerned that on-going uncertainty will lead to significant problems. Frequently processors propose new substances for the processing of organic animal products. Therefore we strongly recommend finalising Annex VI for animal processing at short notice.

4.2. Regulation for wine processing

The processing of wine is another on-going topic. A new Regulation for organic wine is necessary and must take into account the results of the new Wine-Project which will start in 2006.

4.3. Organic ingredients with technological functionalities

The title of Annex VI A defines the listed components as "ingredients of non-agricultural origin". In the scope of the EU Reg. 2092/91 this only counts for unprocessed (Article 1 (1) a)) and processed agricultural crop and livestock products (Article 1 (1) b)). By contradiction, a number of technical ingredients (Annex VI A) for processing of organic origin are available, such as organic lecithin, organic flavours, organic yeast and organic gelatine. Assuring that such organic ingredients are used would enhance the authenticity of organic food.

This contradiction causes problems for producers of organic technical components listed in Annex VIA and blocks the positive development of organic foods. We presume it is not the objective of the Regulation to exclude so called

"ingredients of non agricultural origin" from being certified as organic if they are from agricultural origin (and there are an increasing number!). Therefore we propose a change in the structure of the Regulation that would make it possible to certify all ingredients (additives) listed in Annex VI A as organic.

4.4. Ion exchange resins

We ask the Commission to clarify if ion exchange and adsorbent resins can be used during the processing of organic foods. Different legal understanding of those materials between member states causes problems on the market for organic foods. We agree with the Commission's proposal to include these materials in the scope of Annex VI. That means to develop a positive list of possible applications for ion exchange resins which can be used during the processing of organic foods.

4.5. Infant's formula and other dietary foods

There has been much discussion about allowing ingredients such as supplements or additives for products such as infant starter formula or follow-up formula. We consider organic infant food an important part of the organic market. At the same time, we recognise that the very nature of infant formulae and follow-on formulae (and other dietary foods) and the demands made on them clearly distinguish these from basic foods. Infant formula and follow-on formula are "substitute foods"!

Mothers unable to breastfeed can be helped best if they are provided with an infant starter formula or follow-up formula which, on the one hand, consists of organic raw materials and, on the other hand, corresponds with the latest scientific insights.

Therefore we recommend that the Regulation is changed to incorporate infant and other dietary foods, with appropriate labelling of their additional ingredients.

5. Derogations and Regional Variation

Organic farming is an on-going process which is still relatively undeveloped and unresearched. The sector is continually seeking to better put into practice its basic principles. Ideally, the Regulation would define principles and aims, and an inspection body would audit and control the operator's compliance with and progress towards these, together with his/her plans for future improvements.

In practice, there is a conflict between the Regulation defining what is organic in rigid, detailed, often quantitative terms and a more process-based approach that addresses the 'whole system' and recognises the need for on-going progress. This contradiction between a static Regulation and the natural dynamic of organic farming makes it difficult to adapt to regional differences and reach broad harmonisation.

Regional differences are due to the follow causes:

- **biological**
the biological, and therefore the geographical- and climate-dependent, nature of agriculture and in particular organic agriculture
- **state of development**
the differences throughout the EU between less and more developed organic sectors, both in production and in consumption
- **economic frames**
The sector has big differences between different member states in support regimes, structure of the food sector, premium prices etc.

Many derogations have been necessary to balance this shortcoming. Some of them have succeeded, other have not. Some of the current derogations have run into problems, partly because the Regulation tends to concentrate on the quantitative approach, and partly because not enough has been invested to ensure the necessary progress.

Derogations have also been needed when new amendments were made with unrealistic arbitrary dead-lines. Some repeated failures have tarnished the credibility of the Regulation and the way it has been administrated.

The IFOAM EU Group supports the principle of allowing derogations with deadlines, where unavoidable, but they must be based on consultation, research, practical reality, regional variation and have necessary support. Derogations are acceptable if they encourage a transition towards a process-based approach. As this transition will not be possible from one day to the next, in the mean time it would be desirable to guarantee a process-based approach for the management of these derogations.

We recommend that a clear policy how to manage derogations should be outlined. We propose the following guidelines:

- All present derogations in the Regulation should be reviewed to assess whether it should have a deadline – if not then it should not be a derogation but it should be allowed in the Regulation, e. g. possibility to buy conventional male breeding animals. If the derogation is necessary, the deadline should be set based on the criteria above.
- There should be interim deadlines to ensure measured progress, including mid-term reviews after which the deadline should be fixed. These are to ensure that Member States invest in the necessary progress in the time given.
- It must become clear who can request a derogation. We believe the European subsidiary theory applies well to this situation and that the request for derogations should follow a bottom-up path. Local organisations and member states are those who best know about there regional particularities. The Commission will have the important role to monitor the derogations.
- There must be adequate time after a final decision and a change in a derogation. “Adequate time” depends on the topic.

With regards to regional variation, we refer to the IFOAM Policy No. 42, Annex 2 which defines criteria for variations and subsequent amendments. The IFOAM EU Group has also extensively looked at guidelines for regional variation. The outcome is at your disposal.

6. Functioning of the internal market

We are aware of the Commission's concern that the internal market is not functioning freely and the supposition that the private standards set by "organic" associations are causing this. One must not discount the vital role private standards play, in innovation (including of organic standards), in promotion and in building consumer confidence especially at the local/regional level. Both the Regulation and the organic market would be much less advanced without the beneficial pressure private standards exert. There is no way that the Commission, together with the EU logo, can ever achieve the local penetration needed to replace them adequately.

By contrast, some would argue that the unsold surplus of organic grain in France (whilst others are using non-organic grain in feed for organic livestock) is the result of inadequate application of the Regulation by the various control authorities. It is certainly not caused by private standards setting and inspection system.

If there is a problem with the internal market, then private labels may be a symptom of this, but they are not its cause. We would argue that the causes are the biological (and therefore the geographical- and climatic- dependent) nature of agriculture, the differences throughout the EU between less and more developed organic sectors, between the support regimes for organic farming and between the expectations of organic consumers. All these contribute to the tensions between (essentially) importing and exporting regions.

Forcing through complete harmonisation will not resolve this and will only mean that the private bodies (and their consumers) will find other ways to assure the additional integrity they feel is necessary. The Regulation should set a common baseline which makes basic harmonisation possible. Private standards complement this by providing national and/or local guarantees that consumers can identify with and by stimulating standards to go beyond the baseline.

7. GMOs

GMO contamination poses a significant threat to the whole organic sector. In previous position papers, we have rejected specific organic thresholds for GMOs which would make our sector bear the costs of pollution created by others. We

maintain that the Commission is treading dangerous ground in the way it is currently interpreting the legislation on GMOs. The issue of liability must be addressed, as must coherent labelling rules.

We refer to the IFOAM EU group position paper “Co-existence between GM and non-GM crops: Necessary anti-contamination and liability measures” for the full range of recommendations we make with regard to regulating GMOs and organic agriculture.

8. Animal Regulation

The animal Regulation is an important and complex part of the organic Regulation. Since its introduction in 1999 it has undergone continuous change. We consider some parts to be overregulated, while other parts are missing clarity.

We stress the need to thoroughly review the animal Regulation, bearing in mind many of the above comments on scope, style, etc. The current timeframe we must operate to does not allow us to provide detailed comments at present. We do intend in the future to provide comprehensive input for revision of the animal Regulation.