

# **New proposed EC Regulation on Organic Farming**

## **Position Paper**

November 2014

## 1. Background

The European Commission began a review of the current organic legislation in 2012. This was based on a questionnaire sent to Member States and then sent to stakeholders focusing on a number of issues the Commission felt could cause problems for trade and that could undermine consumer confidence.

In its work program for 2013, the European Commission included a new proposal for a revision of the legislative framework for organic production in the EU. The formal legislative proposal was issued on 24 March 2014<sup>1</sup> and is now being discussed within the European Parliament and Council<sup>2</sup>.

## 2. Executive Summary

The European Commission consultation with its experts on the Advisory Group for Organic Food and Farming supported an improved status quo, but not a brand-new regulatory framework. The online survey used as a basis for the EC proposal lead to inconclusive results. It is questionable in its methodology and its representation. As a result, the conclusions and assumptions made by the Commission (even with a few positive proposals) are largely counter productive to future growth for the organic sector.

Having reviewed the European Commission proposal our position is as follows:

1) **Risk based approach to official controls is a positive and welcome development** from the Commission. The aim is to remove the mandatory annual verification of compliance through inspections. Operators deemed to be of lower risk would be “physically” inspected less than once a year, but higher risk operators would be more closely targeted and could be inspected more frequently. We agree with the Commission’s assessment that this would be a more efficient use of resources. The long term impact of this could lead to better compliance by operators as it would (directly) be in their interest to demonstrate compliance such that they can be allocated a lower risk rating and benefit from less frequent inspections.

2) The further development of **Group Certification** by the Commission to bring group certification into the EU **is a positive step**. It is clear that this could also be of benefit to smallholder producers within the EU would would like to access organic certification but are too small to do it on their own. This said, there are some reasons for concern with this development. The Commission, in its proposal has stated that the detail on the arrangement for group certification will be made know within the delegated acts and within the implementing acts. If the Commission chooses to greatly change the process by which grower group certification works both for the EU and for third countries, then this will again cause serious disruption to the trade of organic products from third countries. Given the time and work it took to build consensus for a credible system to be achieved in the past, it would be **prudent for the Commission to adopt the systems already in place**.

3) The new proposal for **conversion periods** state that no conversion period is necessary for cases where the land has been left fallow for at least the time period required for

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<sup>1</sup> Proposal for a Regulation of the European Parliament and of the Council on organic production and labelling of organic products 2014/0100 (COD) - COM(2014) 180 final, available from: [http://ec.europa.eu/agriculture/organic/eu-policy/policy-development/index\\_en.htm](http://ec.europa.eu/agriculture/organic/eu-policy/policy-development/index_en.htm)

<sup>2</sup> EU legislative procedure, identifying stage in the process and main responsible EU decision makers: [www.europarl.europa.eu/oeil/popups/printficheglobal.pdf?reference=2014/0100\(COD\)&l=en](http://www.europarl.europa.eu/oeil/popups/printficheglobal.pdf?reference=2014/0100(COD)&l=en)

conversion. This could be seen as a positive step dependent on how the Commission defines "Land that has been left fallow". If simple third party verification is required to prove that the land has been left fallow, then could be seen as a positive improvement to the current system. If however, the third party verification of the land being fallow is complex and arduous, then this would represent a major problem for operators wishing to convert into organic production.

4) In relation to the **import regime**, the EC proposes to **replace equivalence with a strict compliance for imports** (in all cases except for those negotiated bilaterally with larger trading partners). The Commission argues that it wants to establish **fair competition alongside market growth**. There is no evidence that compliance will achieve this. In fact the opposite is true.

- Fair competition is not an issue in most of the cases.
- Imported products are in general more expensive than non-imported products.
- Compliance will lead to more expensive organic products and logically consumers will not buy more products as a result.
- There are better ways to address this such as the IFOAM proposals.

5) **Residue Testing changes the landscape for organic controls and for liability rules for organic products**. While the sentiment is commendable, the practicalities of applying such a change Europe wide not to mention globally would have enormous cost, legal and complex implications for all involved. This is not a proposal we can support.

6) Given the strength retailers have in today's markets and the dependence consumers have to them, the **removal of retailer exemption is a very big risk** for the Commission to take on behalf of the sector. It is clear that this would immediately put additional costs and administrative burdens on retailers both large and small who sell organic products and could result in a decline in the number of retailers choosing to sell organic products.

7) **Removal of all exceptions** immediately sounds like a positive step. However there are some concerns with this. On the one hand the Commission argues that all exceptions need to be removed and this needs to be done urgently. Yet on the other hand it also argues that some exceptions will have to be maintained at least until 2021. If some exceptions are to be maintained until 2021, what is the difference to the current system? The current exceptions all have deadlines. Why not simply improve the mechanism for phasing them out?

8) **Holdings to be entirely organic** manages certain risks but causes **major concern**. This would pose a risk to producers who do not want to have their agricultural holdings as entirely organic. **Some might decide to drop out of organic as a result of this and in other cases, some who might have been cautiously considering entering the organic sector might now be deterred from it**. In a third country context, this would be a disaster. A third country coffee or banana farmer who holds chicken or pigs for subsistence or holds a non-organic cow will no longer be able to export his/her coffee/banana to the EU as organic unless all products (chickens, pigs, cows) within the farm are converted to organic. Most farmers in this situation would be forced to pay a huge price to have these products all converted and as a consequence would likely leave the organic sector.

9) **Delegated Acts** would allow the Commission to amend annexes, lay down detailed rules especially in relation to implementing rules without consultation or seeking the formal opinion of the Standing Committee on Organic Farming. This is a concern and the use of such acts should be reduced.

10) Under **Environmental Management Systems** some organic operators will be required to develop an environmental management system to improve environmental performance. The detail behind this is as yet unclear and the Commission proposes to use a delegated act to develop this. One **positive approach to this would be for the Commission to consider**

**this as a voluntary system.** This would work by allowing the use of an Environmental Management System by an operator to be taken into consideration in the risk allocation of that operator by the certifier. With an EMS in place a lower risk allocation to that operator could result in less frequency in audits thus balancing out that operator's additional costs in implementing an Environmental Management System. If, however, the Commission chooses to implement this system in a rigid mandatory way, then there is a risk that the organic sector could be stalled by this effort. The manner of implementation is important.

### **3. Positives from the EC Proposal (in detail)**

#### **1) Risk based approach to official controls**

This is a welcome development from the Commission. The aim is to remove the mandatory annual verification of compliance through inspections. Operators deemed to be of lower risk would be “physically” inspected less than once a year, but higher risk operators would be more closely targeted and could be inspected more frequently.

We agree with the Commission's assessment that this would be a more efficient use of resources. The long term impact of this could lead to better compliance by operators as it would (directly) be in their interest to demonstrate compliance such that they can be allocated a lower risk rating and benefit from less frequent inspections.

Additionally, this approach could also allow the Commission to encourage operators to take on additional requirements (such as an Environmental Management System) on a voluntary basis knowing that it would lead to some benefits for their certification / inspection requirements.

As an approach this has the potential to help the Commission to achieve its aim for better delivery of consumer expectations while making it workable for operators to achieve.

#### **2) Group Certification**

Group Certification has been a credible part of the organic certification system for the past 20(+) years in third country certification. It was painstakingly developed (funded mainly by IFOAM with assistance from others) over a period of 4 years into a harmonized process for certification.

This new development by the Commission to bring group certification into the EU is a positive step. It is clear that this could also be of benefit to smallholder producers within the EU who would like to access organic certification but are too small to do it on their own.

This said, there are some reasons for concern with this development. The Commission, in its proposal has stated that the detail on the arrangement for group certification will be made known within the delegated acts and within the implementing acts.

This raises concern as any change to the implementation of grower group certification in the EU will have an impact on the implementation of grower groups in third countries. As we do not know what the Commission will try to implement, it is with caution that we state that the introduction of grower groups in the EU is welcome.

If the Commission chooses to greatly change the process by which grower group certification works both for the EU and for third countries, then this will again cause serious disruption to the trade of organic products from third countries.

Given the time and work it took to build consensus for a credible system to be achieved in the past, it would be prudent for the Commission to adopt the systems already in place.

If the Commission changes this, it will mean the tens of thousands of dollars / pounds / Euros of investment that have been made in setting up Internal Control Systems and in training inspectors and in writing up internal regulations will have been wasted.

Given that the Commission has had published a guide to its acceptance of group certification in third countries, there would surely be a case for compensation for all those operators who have invested in these structures if the Commission now decides that it will completely change the way this type of certification is managed.

With these uncertainties, it is imperative that the Commission makes clear its intentions to the inclusion of grower group certification to EU farmers and its impact on third country certifications.

### **3) Conversion periods**

The new proposal has seen a amendment to the old process for retroactive recognition of land for conversion. Under the current rules, a Member state can retroactively recognize a part of the conversion period for land that has not been treated with non-authorised products.

The new proposal changes this to state that no conversion period is necessary for cases where the land has been left fallow for at least the time period required for conversion.

This could be seen as a positive step dependent on how the Commission defines "Land that has been left fallow".

If simple third party verification is required to prove that the land has been left fallow, then could be seen as a positive improvement to the current system.

If however, the third party verification of the land being fallow is complex and arduous, then this would represent a major problem for operators wishing to convert into organic production.

It remains to be seen how the Commission proposes to implement this change before we can realistically assess the impact of this proposal.

## **4. Main Concerns in the EC Proposal *(in detail)***

### **1) Why principled based approach? - The case was not made**

The process by which this approach was chosen by the Commission is unclear and has not been justified.

The Commission used the following processes to gather information:

- a) An online consultation process with stakeholders
- b) A series of enlarged and standard advisory group meetings.

#### **a) The online consultation and results**

The Commission argues that online consultation identified that the main reason that consumers chose to buy organic products was their concern for the environment (83%). Consumers were also encouraged by the integrity of organic products with regard to GMOs

and non-authorised substances and their residues (81%). The Commission argues that 74% of those who responded think that the European Organic Standard should be strengthened.

This said, only 40% of respondents felt that this should be done by having stricter rules. The Commission highlights that the organic sector has seen significant growth over the last few years which indicates that consumers have a high degree of trust with the current system. Other research from the Organic Research Centre in the UK and from the Thunen Institute of Farm Economics indicate that while there are some areas for improvement, the EU organic regulation generally provides a sound basis for a sustainable development of organic production in the EU.

We have questioned the ability of the Commission to take this consultation as a basis from which to argue for a future direction on growth for the organic sector in the EU.

Firstly, the consultation does not give a clear picture of the demographic of the respondents who took part in the consultation. It is clear that there were many respondents who are already very engaged with the organic sector who will have taken part in the consultation and this is of course welcome. This group (group 1) will probably already be consumers of organic products who purchase organic goods on varying frequency for their consumption. This being the case, this group are already part of the current growth of the organic sector and it is important that they continue to stay part of the sector.

This said, it is not clear how additional growth can be achieved from this group alone. We would argue that for the organic sector to see future growth, it will be necessary for new additional consumers (group 2) to be engaged in the organic sector and indeed, they will need to be engaged as much as (group 1), but it is clear that there must currently be valid reasons why group 2 are not currently purchasing organic products. This may be due to:-

- High cost of organic products
- Availability of organic products
- Cynicism about organic products
- types of organic products available
- Having organic as a consistent choice in restaurants

There are many reasons why (group 2) consumers are currently not purchasing organic products.

If growth of the organic sector is the real target of the Commission, then a consultation targeting (group 2) as well as (group 1) would have been more valuable in achieving a credible growth outlook. **This was missing from that consultation.**

This being the case, it is difficult to see how the commission can assume that this feedback gives a mandate for the Commission to choose a principled approach to renewing the organic regulation.

#### **b) The advisory group meetings and recommendations - for “Improved Status Quo”**

Secondly, the Commission had over the years gathered different organic stakeholders who would periodically be assembled in Brussels to give advice to the Commission on various matters. Questions were raised through out this process by the Advisory Group about the course the Commission seemed to be taking.

The analysis of the consultation was strongly questioned and concerns were raised that the analysis would lead to an outcome not seen as being in the best interest of the sector. The Advisory Group’s majority recommendation was for the Commission to pursue an **Improved Status Quo** approach which would allow for improvements on the work done in the organic

sector over the last 20 years. Many already argued that a principled approach would cripple the organic sector and would create so many complexities that both production and trade would become very difficult.

This approach would make things more difficult for farmers to operate their certifications and sell goods while at the same time making organic products more expensive and less available to consumers.

This seemed counter productive to the aims of the Commission to make things better for farmers and consumers.

This being the case, we do not feel that the case has been made for the Commission to choose to adopt a more “principled approach” to the European Organic Regulation. If anything; it seemed much stronger to adopt an approach for an improved status quo.

## **2) Imports - From Equivalence to Compliance**

For decades, equivalence has allowed third country producers to meet organic standards whose details are appropriate for the conditions of the region while still meeting the objectives of the EU organic regulation. This has allowed importers, traders, processors and manufacturers to source a good variety of affordable and trustworthy organic products, especially those that are also tropical. It is this variety that has seen the organic market place develop and grow such that retailers and consumers were able to choose to offer and purchase a spread of products as “organic”. This has been the basis of market growth and will be the best basis for continued growth of the sector in EU countries. At the same time, it offers opportunity for small producers in developing countries to improve their livelihoods through their participation in the organic sector.

The Commission’s proposal to replace equivalence with a strict compliance for imports (in all cases except for those negotiated bilaterally with larger trading partners) will disrupt international trade in organic products, and threaten market access especially for smaller scale farming operations. Some of the requirements necessary to become compliant are arduous, costly and in some cases as good as impossible for many developing country producers to achieve. For example, the proposal for organic agricultural holdings to be entirely organic will cause many farmers who are currently certified as organic to drop out of the system. Others will be deterred from becoming certified and those that try to stay in the system will do so at much greater costs.

As reported within IFOAM EU’s recent letter to Standing Committee members, there are lessons for domestic organic market development from the imposition of strict import regimes. New import requirements in Japan in 2001 resulted in an import reduction close to 50% and a corresponding catastrophic decline in the domestic organic market. A tightening of production, certification and import requirements by China in 2011 has adversely affected its emerging domestic market.

The Commission argues that this is being done to have fairer competition and to reduce the disadvantage to EU producers of cheaper third country imports. We have questions about the validity of this claim.

a) The fair competition argument cannot be applied to tropical commodities that are not capable of being produced at all or in the volumes needed to satisfy EU consumer demand. What does this then mean for commodities mostly produced outside Europe e.g. Cocoa, Cotton, Coffee, Tea, Rice etc... There can be no fair competition issue with these commodities. Why should additional bureaucracy and cost be added?

b) The Seasonal nature of many organic agricultural products requiring a mixed sourcing policy involving both EU and non-EU origins in order to maintain supply through out the year

could be negatively disadvantaged and the resultant knock-on effect could negatively impact EU producers as well as those outside the EU.

c) It is not clear on what basis the Commission argues that third country imports (i.e. ALL Imports) are cheaper than those products produced in the EU. It would be useful to see evidence of this because a product produced in a third country will have a much longer supply chain than that produced in the EU which comes with additional costs that would not be seen within the EU. In most cases the following additional costs would be associated with a Third country product supply chain:-

- 1) Certification Costs - usually the cost of certification for a third country operator will include transportation costs (International flight), accommodation costs, per diems and then the day rate associated with the number of days the Certification Body's inspector will be on the ground.
- 2) Warehousing costs - Organic products will need to have dedicated warehousing according to time and or space which will add costs to the organic certified product both at origin and at destination.
- 3) Transportation costs - All organic products coming from Third countries will have to be transported into the EU. Whether this is via shipment, air freight or transshipment, there are added costs associated with transporting organic products into the EU. This is not including the costs of conversion or onward transportation within the EU.
- 4) Duty - In some cases, there may be an import duty associated with importing an organic product from a Third country into the EU.

A buyer of these products coming into the EU cannot escape these costs and these are costs that would not be associated with products produced within the EU. All of these costs would have to go into an onward sale price. This being the case, it is hard to comprehend how the Commission argues that products coming from Third countries are cheaper than those originating from within the EU. This list of costs is not exhaustive but serves to question how a product from a Third country could be seen as being cheaper. It would be helpful for the Commission to provide its analysis for this.

Trade experience tells us that a number of outcomes can be expected from this change.

- 1) Supply of the range and variety of organic products currently seen in the market place will diminish and worse still, there is potential for some products that can only be grown in third countries to disappear from the market place all together.
- 2) Consumers will be asked to pay a multiple market premium for those products that can be brought to market and in some cases this will price certain consumers out of organic product purchases.
- 3) In terms of growth, those consumers who are currently not purchasing organic products because they see it as being too costly at today's prices, will certainly not be encouraged to enter the market
- 4) Again in terms of growth, those consumers who currently do not purchase organic products because there is not sufficient choice to cater for their needs will also not be given any choice of organic alternative products to purchase.

For years, the Commission argued that a trade route via compliance was virtually impossible for most products originating outside the EU, and that this was the reason why the compliance arm in this regulation was not implemented. Therefore, there does not appear to be any compelling case as to why the Commission now proposes a move to

Compliance without a clear understanding firstly of the need and secondly any reasoned articulation of why it will work or the likely impact of such a move not just for producers outside the EU but for the organic sector as a whole. Especially when considering that the new proposed regulation and its “principled approach” will be harder to comply with than the current regulation.

Further more, legal experts currently question the ability of any Third country to become fully compliant given the legal aspects of the proposed regulation including the necessary links it has with other EU regulations. It is not clear how third countries would be asked to comply “effectively” to these aspects of the regulation. If this is the case, full compliance is likely to be impossible.

We are in full support of the overall content and in particular the questions which were asked by the IFOAM EU GROUP’s letter to Standing Committee Members on 12th May 2014.

1) What studies and assessments have been conducted on the impact assessment process of the proposed new import requirements on the market supply of organic products in the EU?

2) What are the elements that allow the European Commission to justify the change in the EC proposal from equivalence to compliance for non-EU products in view of the commitments to EU Policy Coherence for Development laid down in Article 188D of the Treaty of Lisbon, Article 12 of the Cotonou Agreement, as reiterated by the 2011 “Agenda for Change” and 2013 “Decent Life for All” European Commission Communications?

3) On what basis does the Commission consider that Third country products are cheaper and therefore pose a price disadvantage to EU producers? The analysis of this question is fundamental to the proposal that has been put forward.

4) Why does the Commission think that a compliance approach will be achievable outside the EU, especially with respect to institutional linkages to other EU regulations and other proposed revisions to the EU regulation to make it stricter including full farm conversion, removal of many exceptions, and a new regime of controls on certification and accreditation?

5) What is the justification for fast-tracking of this change to the import provisions of the current regulation? Why is it necessary given that if enacted, then it compromises discussion by the Council and Parliament on this topic in the context of the whole proposal and its many changes and implications?

We have been working with IFOAM<sup>3</sup> to find a global solutions to this problem. IFOAM’s proposal which we support, that takes into consideration the value of working with an equivalent system but also tries to address some of the concerns raised by the Commission related to the administrative burden of the current system.

The proposal contains the following 3 options:-

- 1) An option for reciprocal equivalence agreement through trade agreements with countries that have fully-fledged organic regulations.
- 2) An approval system for equivalent organic accreditation programs, for the scope of standards approved for EU-equivalence.

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<sup>3</sup> IFOAM Brief: *A Good and Future-Oriented Framework for the EU to Approve Imports of Organic Products*. Document available from Joelle Katto (email: J.Katto at ifoam.org). See also “import regime” section of the IFOAM EU Group *Position on the Commission proposal for a new organic regulation - A Roadmap towards sustainable growth of the EU organic sector* of 6 November 2014. Available from Emmanuele Busaca (email: Emanuele.Busacca at ifoam-eu.org).

- 3) A compliance-with-exceptions route for CBs operating in countries with no existing system or approved standards.

The proposal tries to present a lower administrative burden for the Commission and Member States as well as being fair and transparent. It includes elements of flexibility and the provision of enough solutions to adequately cover the various situations of third countries ranging from those having no organic framework, to those having national/ regional standards and or those with fully-fledged organic regulations.

We feel that this proposal have merit and we will continue to work on it as the solution to the concerns raised.

### **3) Residue Testing**

The proposal for this introduces a new requirement where any non-authorized products or substances are found to be present on a product beyond a given level. Then that product will not be marketed as organic.

This in its self would be a good proposal and if it was not for the complexities of implementation would be one we might support.

This said, It changes the land scape for organic controls and for liability rules for organic products.

Lets take an example of what we could see happen with this proposal.

If a farmer has taken all the necessary precautions and grown his / her products according to the organic regulation and has managed to keep the organic integrity of the product all the way through to placing the products on to a truck or container for shipping to the buyer's destination. The buyer has accepted the goods into his / her warehouse and then carried out some testing that indicates contamination with non-authorized substances beyond a given level. The organic status will be lost for this product.

The buyer can sell the product as conventional, but the organic premium will have been lost for this product. The buyer will obviously try to recover the lost premium from the seller of the product. But the seller will argue that the product still had its organic integrity intact when it was handed over to the buyer. How will this be resolved?. There will need to be some form of arbitration process to assess where the product was contaminated, when the organic status was lost and who has responsibility for the liability.

A few points to consider in assessing these claims:-

- Who will carry out the laboratory assessments of products?
- What will the cost be for such assessments?
- Who will pay these costs?
- Having found a contamination, a third party will likely have to carry out an investigation to uncover the source of this contamination. (i.e.who is liable?).
- Who will pay for these investigations to be carried out?
- How easily will it be for these investigations to be carried out? - for example how can the assessing team have access to warehouses, trucks or shipping vessel's containers to examine them and allocate the origin of the contamination.
- Lets assume that the contamination was indeed from a shipping vessel's container or the back of a truck. How will transportation companies react to having to compensate clients for their lost organic premiums? They will likely raise the price of transporting organic products as a contingency to the future risk.

- What if the contamination was not actually part of the whole consignment? Will the whole consignment have to be decertified? Will only part of it need to be decertified? If some part of it is decertified, who will determine how much needs to be decertified?
- How long will such processes take and where will the product be held?

There are many more questions that have been raised by this proposal. These questions are not likely to be answered in the short term and will need detailed responses before one can assess if this proposal is a viable one or not.

The reality is that answers to some of these questions may not be found because it is often the case that theoretical solutions that seem workable on paper are not always viable in practice.

This being the case, this proposal poses a large risk to any farmer / operator and or even certification body that could be found liable if products are regularly found to contain non-authorized substances with a valid certificate.

How will the market place manage this risk? It will likely raise the price of all organic products to allow for a contingency level to compensate for this risk of loss of organic status.

How much will prices have to go up to compensate for this is debate-able, but insurance premiums will go up and therefore so will the cost of products being sold as organic.

One must also consider that this would have to apply to a third country context and international trade. Liabilities and responsibilities will cross sovereign borders and legal frameworks and its complexity will be multiplied.

Lastly, it should not be underestimated how much of a significant change this represents from the current regulation. The current system has been based around the identification of a process that will result in a product that can be certified as organic. This change will affect that process and focus more on the product.

If we are to focus more on the product and not on the process, then the logical next step is for the removal of the requirement for Certification Bodies. Organic status verification would then be done by laboratories that test for non-authorized substances. Why should an operator, farmer, trader or other be forced to pay two sets of fees if the organic status will be verified by a laboratory and not by a certification body?. Two sets of fees will add costs.

If the complexities highlighted above could be resolved, then this would not be such a negative proposal. However, given the problems of implementation that will be posed by the proposal, it will be a negative step for the organic sector to take.

#### **4) Scope - Removal of Retailer exemption**

This relates to a current situation where Member States have the ability to exempt Retailers from the organic control system (from having to be certified) because they do not produce, prepare, store other than in connection with the point of sale or import those products from a third country.

Members States have interpreted this differently resulting in different levels of supervision and control.

In line with a principled approach, the Commission is proposing to remove this exemption such that all retailers would have to be certified.

Given the strength retailers have in today's markets and the dependence consumers have to them, this is a very big risk for the Commission to take on behalf of the sector. It is clear that this would immediately put additional costs and administrative burdens on retailers both large and small who sell organic products and could result in a decline in the number of retailers choosing to sell organic products.

## **5) Production rules - Removal of exceptions**

The proposal being put forward removes all existing exceptions. These would include removing the use of non-organic stock, use of non-organic feed, use of non-organic seed. From the Commission's point of view, the exceptions hinder the development of organic production, that consumer confidence is dented and that the market is distorted as a consequence of the existing exceptions.

The eventual removal of exceptions has always been an aim for the organic sector so this proposal is not a huge surprise, but the sector has been working towards a phased removal.

There is no clear documented evidence validating the impacts associated with the sudden removal of these exceptions within the Commission's impact assessment. The Commission goes further to propose that, in order to ensure a smooth transition from the current exceptions, they would need to be empowered to adopt delegated acts which would allow them to provide for exceptions to the new regulation. These exceptions the the new proposed regulation would come to an end on 31st December 2021.

This is confusing. On the one hand the Commission argues that all exceptions need to be removed and this needs to be done urgently. Yet on the other hand it also argues that some exceptions will have to be maintained at least until 2021.

If you are going to maintain some exceptions until 2021, what is the difference to the current system?. The current exceptions all have deadlines. Why not simply improve the mechanism for phasing them out?

The positive from this proposal is that only one body would be able to grant the exceptions as opposed to the current situation where all Member States have the ability to grant regional exceptions. At the same time, the fact that one body will now be the sole decision maker poses some concerns.

## **6) Requirement for organic holdings to be entirely organic**

The Commission's proposal also stops the ability for organic holdings to have any part of them as non-organic. Producers are being asked to convert all of their holdings to organic even if some parts of their holdings were not intended for organic conversion.

This would pose a large risk to producers who do not want to have their agricultural holdings as entirely organic. Some might decide to drop out of organic as a result of this and in other cases, some who might have been considering entering the organic sector might now be deterred from it.

In a third country context, this would be a disaster. A third country coffee or banana farmer who holds chicken or pigs for subsistence or holds a non-organic cow will no longer be able to export his/her product to the EU as organic unless all products within the farm are converted to organic. Most farmers in this situation would be forced to pay a huge price to have these products all converted and as a consequence would likely leave the organic sector.

If farmers were able to stay, the costs of these additional certifications which would now have to be added would have to be recouped through product sales. There is no guarantee that traders or consumers would be willing to pay the additional premiums for these products.

## **7) Delegated Acts**

One area of concern is the request by the Commission to be granted powers to adopt Delegated acts through out this proposal. This would allow the Commission to amend annexes, lay down detailed rules especially in relation to implementing rules without consultation or seeking the formal opinion of the Standing Committee on Organic Farming.

This means that (potentially without consultation) **important** proposals for amendments (that are **not** non-essential) could be made by the Commission resulting in a possible proposal being submitted to the European Parliament and Council.

The concern is that a large number of the provisions in this proposal under delegated acts are quite important. This being the case, they should not be amended without sufficient consultation with Member States and or with other groups giving clear evidence of the impact assessment that has been done.

## **8) Environmental Management Systems - could be positive if voluntary or used as an incentive.**

Under this proposal, some organic operators will be required to develop an environmental management system to improve environmental performance. The detail behind this is as yet unclear and the Commission proposes to use a delegated act to to develop this.

There is potential for this to be a useful requirement, but this will be dependent on how the Commission plans to implement this proposal. If the implementation results in an additional and unnecessary administrative burden then this could result in a reduction in organic trade and production with no spin off benefits to the environment.

One positive approach to this would be for the Commission to consider this as a voluntary system. This would work by allowing the use of and Environmental Management System by an operator to be taken into consideration in the risk allocation of that operator by the certifier. With an EMS in place a lower risk allocation to that operator could result in less frequency in audits thus balancing out that operators additional costs in implementing an Environmental Management System.

If, however, that Commission chooses to implement this system in a rigid mandatory way, then there is a risk that the organic sector could be stalled by this effort. The manner of implementation is important. Because we do not know detail behind this, it is difficult to fully comment on the merits or not of this.

## 5. Conclusions

The European Commission has stated its aims for its proposal are to:

- Clarify the rules and simplify where possible,
- Address gaps in the legislation,
- Encourage fair competition for farmers and operators,
- Address consumers evolving concerns,
- Remove exceptions to the rules
- Streamline the control system and to Reform the trade regime.

How much of that would be achieved if the EC proposal went through, as such, the EU decision making process?

It has to be firstly stated, that there are some positives within this proposal. The risk based approach to official controls for example is a very positive step which the FTAO would whole heartedly support.

This said, the reality is that this proposal has now created uncertainty. Many farmers, operators, businesses, brands will have read this proposal and will have major concerns about the future. They could put on hold any new organic products they had planned to grow, produce and develop because of this uncertainty.

The possibility for such a directional change in the organic regulatory frame work will likely be causing a slow down in new organic product development!. This is the unfortunate outcome from this proposal.

At least with an improved status quo, there was already an existing frame work that all actors understood and could work from. The whole sale change that has been put forward within this proposal begs questions of the work done over the last 20(+) years.

While the FTAO is in support of the move to a more risk based approach to official controls and is cautiously in support of the introduction of Group Certification and the changes to conversion periods.

The FTAO is not in support of the remaining proposals highlighted within this document as put forward by the Commission for a new organic regulation for 2017. We believe that they will be counter productive to the organic sector as a whole.

We remain open to dialogue and would be pleased to work with the EU Member States, Members of the European Parliament, the European Commission and or other parties to find alternative solutions.

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*The Fair Trade Advocacy Office (FTAO) speaks out on behalf of the Fair Trade movement for Fair Trade and Trade Justice with the aim to improve the livelihoods of marginalised producers and workers in the South. The FTAO is a joint initiative of Fairtrade International, the European Fair Trade Association and the World Fair Trade Organization-Europe. Through these three networks the FTAO represents an estimate of 2.5 million Fair Trade producers and workers from 70 countries, 24 labelling initiatives, over 500 specialised Fair Trade importers, 4,000 World Shops and more than 100,000 volunteers.*