

Freshfel Europe, the European Fresh Produce Association, is the forum for the fresh fruit and vegetables supply chain in Europe and beyond. Its members and associated members are associations and companies that have an interest in the European fresh fruit and vegetable sector, including production, trade, logistics, retailing and other services providers. Freshfel is a non-profit association under the Belgian legislation of 1918. The seat of the association is located in Brussels – the headquarters of the European Union. Freshfel is registered in the EU Transparency Register under N°1637225479-02.

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Freshfel Position Paper on the Organic Agriculture Reform Proposal

Freshfel Europe, the European fresh produce association representing the fresh fruit and vegetable sector, is responding to the Commission's proposal report of 24th March 2014 on their consultation on Organic Agriculture Reform with this position paper.

Overview over the market

Organic and non-organic fruit and vegetables account for 17% of the value of the EU's agricultural production and represent 3% of the EU's cultivated area. The total production value of fruit and vegetables in 2012 was estimated to be 50 billion EUR for a total volume of around 80 million T. Of this, organic fruit and vegetables are estimated to make up to 4.5% to 5% (crop data are not available in all the member states). As there are no specific CN codes for organic products, it is difficult to obtain a clear picture about the size of the market for organic fruit and vegetable. The inclusion of organic certificates into TRACES as part of the new proposal and the resulting biennial statistical reports about organic trade should be a great help to get better statistical information.

Issues relevant for the fruit and vegetables sector

When the European Commission began the development of new organic legislation, Freshfel participated in two stakeholder events on organic production and trade in autumn 2012, and sent a response to the public consultation of the Commission in spring 2013. When finalising the new rules and the related delegated and implementing acts, it is important that operators are consulted and their voice taken into account so that the rules are workable for the organic sector while creating a level playing field at the same time.

Freshfel's main concern with the existing legislation is the lack of harmonisation at the European level. This leads to different interpretation in the different member states, for example when it comes to acceptance of pesticide residues or the testing conducted by control bodies. This creates unequal trade conditions for fresh produce operators in different member states.

The new Commission proposal goes into the right direction by suggesting the elimination of the exceptions. However, it is not prescriptive, and leaves the definition of more specific rules to later rule making by the Commission. This is not transparent. The fruit and vegetables sector is adamant that growers must be allowed to collaborate in the setting of these specific rules which are crucial for coherent, and harmonised legislation.

The Commission proposal suggests many other changes, some of which will be reflected below. While Freshfel has identified many positive aspects, the general feeling of its members is that the proposal goes a step too far by focusing disproportionately on the final product rather than on the production process. Importantly, some aspects as proposed could lead to a decline of interest in organic production. In future, important changes would be required to re-create interest among producers and the sector as a whole.

As a result, some points need to be revised in order to be workable for the sector. More detailed comments can be found below:

Full conversion towards organic agriculture

The fresh produce sector believes that the obligation for producers to become 100% organic is impractical and costly for producers. It will not achieve the desired results, and may actually reduce the number of such growers. Customers are often glad to have a trusted supplier who can provide them with both conventional and organic produce. In the case of bigger producers, the duty of full conversion will only lead to a (possibly costly) split of the holding with little further change or impact on the ground. It will not introduce buffer zones between organic and non-organic fields, nor will it solve issues related to spray drift etc. if prevention measures have not already been taken in the mixed farm. For small producers who do not have the possibility to split farms, giving up their organic production may mean a substantial loss of revenues. It may also lead traditional customers of the small farmer to turn to larger farms with split operations that can assure the supply of both conventional and organic produce. For sprout producers who are traditionally taking organic or conventional seeds and sprouting these in a dedicated sprouting facility, a duty to become fully organic – or stop organic – would mean the end of any organic sprout production in Europe. Since sprout producers are considered primary producers, we understand that they would fall within the definition of producers as described in the Commission proposal. Due to these various reasons, Freshfel believes that the possibility of mixed farms should be maintained in the new organic regulation.

Separately, there are also concerns about the new rules in regard to the conversion period, which will no longer recognise steps previously undertaken by the sector to move to organic production. Varying rules applied during the conversion period by different EU member states and/or third countries might also lead to distortion among operators.

The Commission also proposes much tighter rules on the sourcing of seeds and planting material to be sown by organic producers. This will either drive up the costs, or reduce availability because seed production of small quantities and/or uncommon varieties will no longer be profitable. This will actually reduce organic outputs, and prevent diversification which is environmentally desirable.

Substances & MRLs

The Commission is planning to introduce fixed maximum residue levels (MRLs) for unauthorised pesticides beyond which the product could not be marketed as organic. This level would be oriented along the level applicable on babyfood. Freshfel believes that such a level would lead to the unnecessary rejection of many fruit and vegetables that have been grown according to organic criteria. General European MRL levels are already in place and guarantee compliance with EU food safety legislation. An additional MRL for organic produce will bring confusion into the debate, as the MRL is a Good Agriculture Practice limit and not a trading limit nor a health safety limit.

Organic production takes its legitimacy from the fact that pesticides are avoided as much as possible. Only pesticides from natural origin are allowed while all others are forbidden. In the majority of cases, residues of

unauthorised pesticides originate from sources that are external to the production process (e.g. spray drift from neighboring conventional fields). To avoid penalising organic farmers for possible crossed contamination resulting from application by growers in their vicinity, it would be more appropriate to examine the origin of the contamination on a case-by-case basis rather than establishing a prescriptive maximum threshold for everybody. At the same time, it is important to have common rules for operators and control bodies which lay down how to deal with findings of pesticide residues. Since there may be differences from product to product, it seems appropriate to define these at a technical level and in consultation with experts from the sector.

To provide certainty to the sector, it would also be desirable to look for links with provisions and guidelines on Integrated Pest Management (IPM) as well as directive 2009/128/EC on sustainable use of pesticides while developing EU organic legislation. For the future, it could also be interesting to extend the debate on active substances to include the status of (natural) nutrients and heavy metals in order to regulate the impact on soils.

Finally, Freshfel would recommend a dynamic approach in regard to the list of active substance. The horticultural sector needs to have a regular review process to allow the inclusion of new substances with improved performance from a safety and environmental perspective. The review should also cover natural nutrient substances and heavy metals, looking not only at organic agricultural practice but also considering the implication for the soil as a growing medium and for carbon sequestration. In general terms, and considering the new bilateral equivalency approach (such as the EU-USA agreement), it is noted that the USA operates a negative list, while the EU operates a positive list.

Registration of operators

We agree to obligatory notification of activities by all supply chain operators growing and trading organic products to the competent authorities. This is a step considered to improve transparency, responsibility and accountability as well as consumers confidence in the value chain.

For the purpose of transparency, the updated lists of operators drawn up by competent authorities should be easily accessible for operators across the EU28 (via a single reference page of the European Commission?). The further development of e-certification is an aspect that will be very valuable in this respect.

Fraud control system and certification

Freshfel welcomes the Commission measures aimed at preventing fraud in the supply chain. The registration of all organic operators in the supply chain will improve transparency, responsibility and accountability of operators. It will also improve consumer confidence in the value chain. Fresh produce operators also believe that a centralized alert system would be very useful in order to manage situations where fraud occurs. This should provide the necessary information to the relevant stakeholders (if they can prove legitimate interest in the case) and help the industry to take appropriate corrective measures, based on best practices or other relevant experience. The system should however not turn into a name-and-shame scheme such as was in place in some member states in the past.

Freshfel also welcomes the introduction of a group certification scheme for producers. Under the current definition, it excludes holdings of more than five hectares from the scheme. On this basis, group certification would only cover around 20% of all organic farms. It is suggested to remove the limit of five hectares to give greater freedom to organic farmers to combine their forces.

Monitoring of environmental performance and obligatory organic certification for all chain members

It remains unclear what the scope and benefit of this scheme will be. Operators are uncertain what environmental certification would mean for them and which steps they will have to undertake. There are also doubts to what degree the principles of organic farming should be mixed with principles of sustainability. This could create confusion about the original purpose of organic agriculture. Fresh produce operators worry that the requirements of environmental certification might go beyond GAP organic criteria and include (shifting) consumer expectation of what is deemed sustainability of the production process. There is no standard definition of what the word “sustainability” means. With so little clarity about the aim and practical management of environmental certification, there is much concern among the sector that the system will only add another layer of costly certification without any clear outcome. There is also widely differing legislation in the various member states. The fresh produce sector therefore believes that EMS should not be introduced at this point and that it should not be introduced in general unless there is a clear and precise justification of why it will bring added value compared with the current situation.

Official controls

In general, Freshfel welcomes the inclusion of organic controls into the Official Controls legislation. Inspections based on risk may improve the efficiency of controls which could be more targeted. However, it should also be noted that annual controls provide some guidance and reference for producers, e.g. by informing them about the latest changes in the legislation. An annual or better, quarterly, report on the main findings of the official controls would be of great value for the supply chain and enhance best practices.

Import system

The fresh produce sector welcomes the Commission’s proposal to make unilateral equivalency agreements bilateral as it is already the case with the United States. This system will allow the current beneficiaries of unilateral equivalency agreements (Japan, Costa Rica, India, Israel, Switzerland, New Zealand, Tunisia, Argentina, Australia, and negotiations ongoing with Korea, Thailand, Ecuador and Brazil) to keep their access to the EU organic market in exchange for reciprocal access to their own markets. It is not understandable for EU operators why the EU should recognise a third country system as equivalent without the third country recognising the EU system in return. Where feasible, these agreements should be integrated into existing bilateral free trade agreements, but where no trade negotiations are feasible (e.g. in the case of beneficiaries of the EU’s General Scheme of Preferences), this should not compromise the possibility for the EU and its trade partners to conclude an organic equivalency agreement.

However, these equivalence agreements should not be concluded if they cannot result in actual trade advantages for both parties. The bilateral agreement with the United States from 2012 is a case in point. This agreement is of no use for the European fresh produce as long as the export of European fruit and vegetables to the US remains blocked due to SPS barriers. There is an opportunity to export organic apples to the USA that cannot be seized because of a lack of plant health protocols to allow exports of European apples without pre-clearance. Generally, it should be possible for plant exports to take place on the basis of guarantees from the exporting country’s plant protection organization (NPPO). If negotiators of an organic equivalency agreement find that trade partners are unwilling to dismantle these SPS hurdles, they should not consent to an organic equivalency agreement which will open the EU market for products from these trade partners.

It should also be mentioned that the current organic system suffers from the numerous exceptions that allow for different conditions or interpretations (e.g. on the use of pesticides) among different developed and emerging markets. Equivalence agreements, while providing some flexibility, should lead to the convergence of rules so that the space for different interpretation by control bodies is minimized.

Freshfel is very glad that the Commission wants include the organic import certificate into TRACES and turn it into an electronic certificate. For the fresh produce industry which deals with perishable products on a daily basis, this will allow significant trade facilitation and a reduction of administrative burdens. Since importers will no longer have paper certificates in their own files, the electronic system will need to give security to operators (e.g. by allowing them access to the database) that the organic certificate will be in the database at the moment when ships & aircraft arrive at the customs. In the area of perishable products, hiccups with the electronic system may otherwise turn into a greater burden than the current system with paper certificates.

Action plan

Freshfel takes note of the potential benefit of concrete projects that could derive from the Action Plan to increase awareness of existing EU instruments for organic production and address technical gaps. It is welcomed that several areas are explored in this process, namely the development of electronic certification within the TRACES system (improve trade flow for better statistics), the development of new training activities to reduce fraud, and the development of multilateral equivalency recognition agreements with trading partners to facilitate trade, provided that this maintains a level playing field and does not undermine consumer confidence.

Future steps

Freshfel also takes note of the European debate about the organic production and growing practices in greenhouses, in different growing media and also during hydroponic production. These matters are complex and are part of a more detailed discussion considering the different aspects of these dossiers, such as the need to specify rules for glasshouse production. This debate must also include aspects such as the soil and subsoil protection and the implication of use of nutrients, their soil effects and the potential for leaks into surface and underground water sources. Moreover, and within an international context of equivalency agreement, it is noted that already today, the USA and the EU have a different regulatory framework on production although produce can be traded without restriction, which might ultimately impact the confidence of consumers.
