

April 2016

Freshfel Position Paper on the Organic Agriculture Reform Dossier

Freshfel Europe¹, the European fresh fruit and vegetable association, is one of the stakeholders concerned with the reform of the legislation on organic production and labelling. This latest position paper is based on the latest discussions now that all three institutions have entered into trialogue. This position paper will focus on the main points of interest for the fresh fruit and vegetable sector.

Overview over the market

Organic and non-organic fruit and vegetables account for 17% of the value of the EU's agricultural production whilst they only represent 3% of the EU's cultivated area. The total production value of fresh fruit and vegetables in 2014 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 represent around 5% (the necessary crop data is not available in all the member states). As there are no specific CN codes for organic products for data collection purposes, it is difficult to obtain a clear picture about the size of the market for organic fruit and vegetable. Therefore, as one of the first points, 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

1. Background

Freshfel has been actively involved as a stakeholder in the events and consultations surrounding the new organic legislation and it will remain important that operators are continuously consulted throughout this process. Freshfel's main concern with the existing legislation is the lack of harmonisation at EU level. There are different interpretations across member states, which lead to unequal trade and production conditions, e.g. relating to acceptance of pesticide residues or the testing by control bodies.

The current Commission proposal and the positions from the European Parliament and the Council suggest many positive aspects. However, there are certain aspects that Freshfel deems as disproportionate, unsuitable, or would unnecessarily limit the development of the organic segment, or confuse consumers. One of the main concerns of Freshfel depends on consumer confidence, their wishes and understanding of the system. Additionally, some aspects currently discussed in trialogue could lead to, e.g. a decline of interest in organic production as well as difficulties in trade.

This position paper will outline some points of improvement Freshfel wishes to express on behalf of the fresh fruit and vegetable sector.

¹ 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.

2. Scope, objectives, principles

a. Mixed farm holdings

From the current discussions in triologue, there seems to be an agreement that mixed farm holdings will continue to be allowed. This is highly important for the fresh produce sector as it believes that the obligation for producers to become 100% organic is impractical and costly for producers and with no immediate added value from an organic perspective. 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. However, allowing mixed farm holdings would not prevent the possibility of growers and/or traders if they wished to be exclusively active with organic products.

Furthermore, 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. For small producers who do not have the possibility to split farms, giving up their organic production may mean a substantial loss of revenue. 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. 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 ideas in regard to the conversion period, which, if applied, will no longer recognise steps previously undertaken by the sector to move towards 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 as well as confusion for consumers.

b. Seeds

The Commission proposes much tighter rules on the sourcing of seeds and planting material to be sown by organic producers. However, for some produce there are no organic seeds, or organic seeds have to come from far away. It seems contradictory and completely against the aim of sustainable organic production if a producer needs to fly in organic seeds to be able to comply with EU legislation. Additionally, 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 (and economically) desirable.

c. Growing practices and soil

Freshfel took note of the debate concerning organic production and growing practices in soil or out of soil. These matters are complex and are part of a more detailed discussion concerning, amongst others, the philosophy of organic production as well as current growing practices in different member states. Freshfel acknowledges the diverging positions on this matter, but would also like to advocate for a harmonised solution, and for similar concepts both inside the EU and internationally with regard to imported products. This will prevent confusion between the sector and the consumer. In addition, the consumer expectations need to be taken into account. Do consumers want in soil production or do they also agree with products produced sustainably in organic growing media?

In the current legislation, using organic raw materials such as compost, peat, bark, etc. is allowed in organic production. These materials can either be used as a soil conditioner (mixed in with the soil) or used as a substrate (using only these materials to grow produce). In the EU there are different practices in growing organic fruits, vegetables and herbs. In some countries the use of substrate is preferred (particularly in countries growing many organic produce in greenhouses), whereas in other countries only outdoor soil growing is preferred. To make the system more complicated, there are many national derogations, such as

practices that allow growing of organic products in so-called demarcated beds, which are disconnected from soil. In addition, there are other derogations, such as allowing production of organic mushrooms, seedlings and organic plants that are sold in a pot without connection to the soil. As a very basic example, in Belgium, if you buy herbs in a pot it can be sold as organic. However, as soon as the herbs are presented cut, so just the leaves, it cannot be sold as organic. This is not clear for consumers and growers. Freshfel therefore would like to stress the importance of a clear system, with some flexibility for member states, but in principle the same growing conditions across the EU.

Finally, 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 and discriminate EU growers in case of stricter EU rules. For example, the United States, who have an organic equivalency agreement with EU, allow organic production in organic growing media and export these products to EU as organic products. But EU production in growing organic media is not eligible for organic labelling.

3. Import system

One of the main points of discussion is the import system and particularly the difference between compliance and equivalence. Freshfel's position is somewhat of a mix between these two systems as both have benefits and possible concerns.

On the one hand, the fresh produce sector welcomes the proposal to make unilateral equivalency agreements bilateral. This system will allow the current beneficiaries of unilateral equivalency agreements to keep their access to the EU organic market in exchange for reciprocal access of EU exporters to their own markets. Currently, it is incomprehensible for EU operators that the EU would recognise a third country system as equivalent without the third country recognising the EU system in return. Wherever feasible, these agreements should be integrated into existing bilateral free trade agreements. However, 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.

Nevertheless, these equivalence agreements should not be concluded if they cannot result in actual trade advantages for both parties. Taking the bilateral agreement with the United States from 2012 as an example, there is no benefit for the European fresh produce sector since the export to the US remains blocked due to SPS barriers. Currently, there lies an opportunity to export organic apples to the USA which 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 fresh produce 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.

On the other hand, it should 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 as such is in favour of a mix between a compliance and equivalence system. One more thing that needs to be mentioned in regard of import rules is consumer confidence in organic produce. Exceptions should not lead to confusion amongst consumers or even worse, loss of confidence in organic produce. The example made early was quite clear. A producer in the United States can grow organic produce in growing media and sell them on the EU market as organic produce, but an EU grower cannot.

Finally, Freshfel is delighted 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 burden. One point of attention will be that the electronic system needs 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 the ship or aircraft arrives at 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.

4. Substances and MRLs

Freshfel believes that the introduction of fixed maximum residue levels (MRLs) for unauthorised pesticides would lead to the unnecessary rejection of many fruit and vegetables that have been grown according to organic criteria. European MRL levels are already in place and guarantee compliance with EU food safety legislation. MRLs are Good Agriculture Practice limits and not trading limits nor a health safety limits. Creating an additional MRL for organic produce will only lead to confusion.

Organic production takes its legitimacy from the fact that pesticides are avoided as much as possible. In addition, 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 neighbouring 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. At the same time, it is important to have common rules for operators and control bodies which will 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.

5. Official controls

Overall, 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. In principle, Freshfel will welcome any harmonisation regarding controls. An annual (or possibly quarterly) report on the main findings of the official controls would be of great value for the supply chain and enhance best practices.

6. Fraud control system and certification

Freshfel welcomes the increased efforts on fraud control. 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 centralised alert system would be useful in order to better manage situations where fraud occurs. This should provide the necessary information to the relevant stakeholders who 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 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.

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

The fresh produce sector believes that EMS should not be introduced at this point and that it should not be introduced unless there is a clear and precise justification of the added value compared with the current situation.

8. Future steps

Freshfel welcomes the efforts of the European Commission, the European Parliament and the Council to come to an agreement on the organic dossier. With this position paper, the fresh fruit and vegetable sector has tried to provide a clear overview of its main concerns in light of the most recent discussions. However, if there are any more questions, Freshfel remains available for more information or discussion on any and all organic farming topics.
