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Regstrar  
Board of Agriculture  
103 33 STOCKHOLM

***KRAV's response to request for comments on the  
Proposal for regulation on organic production and  
labelling of organic products***

(amendment of (EEC) 2092/91)

**Reference number Jo 2006/13**

**Summary**

*KRAV is strongly critical to a great deal of the proposal for the new EU regulation. If it is enforced, it will be the death knell for the development of organic production and processing and consumption in Europe.*

*In several key areas, the Commission has chosen to supranationalize and repress instead of fostering the energy in the growing organic market:*

- *The proposal means that the great value of the private labelling is confiscated. Instead, it should be the goal to strive for collaboration with the organizations that lie behind the success on several of EU's important markets.*
- *The Commission chooses to hamstring the standards governing processed products instead of opening for more to enter in the system in a simpler way.*
- *Today's artificial boundaries for which production and products are covered by the regulation are cast in concrete and continue to suppress the earning capacity of the actors.*
- *The Commission persists in moving the system of inspections nearer to official authority when actually there are no reasons to do this. Experience tells us instead that the demand for competence should be clarified and the supranational interference be reduced.*
- *The Regulation is full of objectives and verbosity when it comes to consumer protection and the mechanisms of the internal market, but we do not find any indication that organic production and processing shall have good grounds for development.*

***Private labelling is confiscated***

*If the proposal is adopted, private labels will be forced to approve all products that fulfil the EU regulation, even if these do not fulfil their own standards. For KRAV, this would mean that other certification bodies will have the right to issue KRAV certification. The burden of proof will be reversed. It is up to the organization that has a private label to prove that the products certified according to the EU regulation DO NOT fulfil the requirements of the private label. Great immaterial value that has been built up over time is therefore confiscated. If we take a look at the KRAV label, others will have access to a trademark that most likely would cost many hundreds of million Swedish kroner to build up.*

*We are also decidedly against detailed standards being introduced about what can be stated in marketing of the private label. These standards do not foster the development and in addition can easily be circumvented. To attempt to regulate whether one may say that something is better or not is the same as involving oneself in a regulation of value judgements, which should be extremely difficult at the EU level. Organic products are covered by marketing legislation just as other areas and there is no reason to introduce additional limitations through this regulation.*

***The imposed limits impede the market development***

*The organic market has problems with the balance between produced raw materials and the demand for products. Today, organic raw materials are sold to a large extent as components of conventional - processed products. The consumers may not be informed of this – the EU regulation will effectively stop this – and with that, there is no added value that can be taken for the organic ingredients, in spite of additional production costs. This relationship affects profitability in the sector to a very great degree.*

*In the proposal to the new EU regulation, the possibility to market products that do not contain at least 95 percent organic raw materials is removed. By that, the threshold to realize the product's true value will be yet even higher. In turn, this means that the problem of balance that is already present in the sector will be aggravated. We are of the opinion that EU, on the contrary, should make it easier and make it possible to inform about organic ingredients. It appears almost absurd that it shall continue to be forbidden to say something that is true, for example, that a dish contains organic potatoes, or that bread is baked with organic flour, even if the other ingredients are not organic.*

***Artificial limits for applications***

*We also think that the application area of the regulation shall be broadened. The limitations in the present the present regulation and in the proposed regulation are artificial and difficult to understand. The effects become*

*notable. The Regulation means for example that a lunch box prepared in a shop is included, while one prepared in a restaurant is not. It would be more natural if the Regulation included all production from the plant and animal kingdoms originating from agriculture or aquaculture.*

#### ***Unnecessary official interference***

*The entire Proposal is saturated with the system of inspections being moved closer to the realm of official authority, without there being any reasons to support this. There is a great confidence in private certification bodies in Europe. Neither do consumers ask for any supranationalization. Experience instead supports that instead the requirement for competence should be clarified and the intervention of the state be reduced. Inspection and certification of organic production and processing can work in the same way as for other certification, without all of the special points that are now included in the Proposal.*

*It should simply be possible to ensure the quality of the certification by requiring that the certification body fulfils either EN 45011 or IFOAM's Accreditation Criteria. However, the Proposal to the EU Regulation goes a long way on the road to supranationalization without any obvious reason and clarifies that inspection and certification are affairs of the state. Only "certain control tasks" may be "delegated [...] to one or more certification body." Such a system means that inspection and certification are an exercise of official authority and this, in itself, threatens effective inspection (see more under Article 26). Such a system consolidates the problem of unequal relationships between Member States when some states include the inspection as a free service in the public agricultural and food sector inspection.*

*We are of the opinion that exercise of official authority by state and local authorities is only needed when someone sells organic products without being certified in accordance with the Regulation, and then when the inspection body does not have the possibility to reach the actors in question.*

#### ***Unclear objective***

*A central question is the superordinate objective the regulation. Today it is uncertain if and why EU really intends that the organic market shall be developed. In the background there is a great deal about plans of action, consumer protection and safeguarding the internal market. It appears as if the Regulation on the first hand aims at sanctioning a certain standard in force, in the same way that was done for chocolate, as an example. On the other hand, there is almost nothing in the Regulation that shall contribute to a development of organic production and processing. Therefore, we suggest a new point in Article 1 that guides those who shall interpret the regulation. It shall clearly be evident that the development of organic production and processing is on equal footing with the other comprehensive objectives.*

### ***Improvements***

*It should also be noted that KRAV is of the opinion that the new proposal contains certain improvements compared to today's regulations. Important examples of genuine improvements include openings for risk-based inspection, the possibility for regional flexibility and a considerably improved structure in the document.*

*The proposal for changed standards for imports into the EU is also a step forward. The work that FAO and UNCTAD are carrying out within the International Task Force on Harmonization and Equivalence in Organic Agriculture<sup>1</sup> (ITF), has still only given a few concrete results. It is, however, important that the Regulation paves the way for a systematic international harmonization work, and in addition, we assume (but have not had time to verify) that the Commission's proposal takes the on-going work in ITF under consideration. It is important for the coming harmonization that the principles for organic production and processing agree with internationally-established concepts and that certification of imports is based on the available and established system, such as IFOAM's norms.*

*Below we develop the argumentation article for article. We begin, however, with some more general viewpoints.*

### **The concept “private labelling” (“private logos”)**

We use the concept private labelling for KRAV labelling and other equivalent organic marking in these comments on the proposal. Equivalent concepts are used in the proposal for a new Regulation for organic production and processing. There is a danger that the concept can be misleading. It can give the impression that a few stakeholders stand behind the private standards and labelling. This is not the case. Behind KRAV labelling and equivalent labelling, there is a broad gathering of stakeholders and actors. All can influence development of standards in a totally transparent process. Therefore, there is a great consensus behind the standards and what labelling means and shall represent.

In the proposal to EU's new regulation on organic production and processing, a suggestion is lacking on how similar opportunities for the different actors to exert influence shall be created.

### **Rules for production**

So far there are no suggestions for detailed standards. The implementation of the principles that are now presented are of vital importance for how the set of

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<sup>1</sup> [www.unctad.org/trade\\_env/itf-organic](http://www.unctad.org/trade_env/itf-organic)

rules and regulations will function. It is crucial that this sector is given ways to influence the creation so that we shall have a well-functioning regulation.

### **Participation and predictability**

A problem with the current regulation (EEC) No 2092/91 is that the prospects for the organic sector, consumers and others are ambiguous. In Sweden, we have had a good collaboration with our competent authorities and we, in this sector, have been able to advance our points of view. When and in what way this has influenced the proposal is always uncertain in spite of many considerable efforts from the Swedish side. Some framework for a more systematic review must be introduced.

Predictability when changes in the regulations are introduced is central in creating the standards and in the certification operations. This is supported in EN 45011, Article 6, and in the ISEAL Code of good practice for standard setting<sup>2</sup>. In several cases, the implementation of comprehensive changes in the regulations has been hastily pushed through. The latest example is the inspection of storage facilities from last summer. Such activities give a frivolous impression and weaken the credibility for the entire EU regulation.

The details must be managed in another way than as sweeping issues so that decisions can be taken more quickly. As an example, there is a need to introduce clear processes for how the lists of permitted fertilizers, additives, etc. corresponding to the current Annex 2 shall be revised.

### **GMO - generally**

It must be made clearer in the new regulation that GMOs are unacceptable and may not be used in organic production. The certification body shall have the possibility to act when GMOs are found or risks for mixing are suspected according to the inspection scheme customarily used for inspections of separate handling. Article 17, point 3, and point 27 in the preamble have been interpreted by the Commission that the threshold for GMO labelling requirements in non-organic products is governing for organic inspection and this is an incorrect interpretation.

Since standards for mutuality (interpretation of thresholds, liability and reimbursement standards and standards to prevent spreading of GMOs) shall be decided nationally within EU, it is important that there is a clarification in the framework for organic that makes it possible for every country to ensure that

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<sup>2</sup> See [www.isealalliance.org](http://www.isealalliance.org)

GMOs are not used in organic production and processing regardless of which regulations for mutuality that will apply.

The requirements in Article 13, point 4, and Article 14, point 3 have been formulated so that it is not possible for an enterprise to use GMOs in conventional production. It is most likely a too far-reaching requirement and must be rewritten so that it is made clear that it is of vital importance that conventional production with GMOs is kept separate from the organic production and processing.

### **Motivation**

We have not commented on these points. As is evident from the below, we have a totally different position on several points primarily concerning “labelling” and “inspection.”

### **Preamble “Reason for the regulation”**

**General comments:** the points differ very much from each other. The points 9-17 are principles or objective or motivations for principles Why have the points been numbered as they are and what object do they have?

**Point 3** shall even more clearly indicate that the regulation aims at a sharply increased organic production, processing and consumption and a development of sustainable food production.

**Point 7** – We are dubious about allowing the Commission to decide the details in the rules, especially as long as the sector's possibilities to influence are not described.

**Point 13** gives the impression that organic animals are net producers of nutrients. Remove this point!

**Point 15** – Rewrite to “In organic animal husbandry access to pasture is an underlying principle for all animals regardless of animal species.”

**Point 16** Use the words “conditions of animal houses” instead of for “housing conditions”. Remove the requirement for slow growing strains (see Article 5 k).

**Point 20** – The following sentences should be added to this point: “At the same time the development has led to some organic raw materials in many countries do not reach the consumers as organic products. Consequently, the possibility to indicate that otherwise conventional products contain organic ingredients should be included.”

**Point 24** shall be removed; there is already general legislation for marketing that is understood to also apply to organic production and processing. Nothing else is necessary.

**Point 25** – The standardized references that exist are just “organic”; it is therefore we have a regulation. Additional concepts will only be confusing. Remove this point.

**Point 26** We believe a harmonized vision of organic production and processing is most simply brought about with clear and sound set of rules and regulations that affirm initiatives from the different stakeholders. An important driving force for development has until now been that some of the labels have had stricter requirements in certain areas. This also paves the way for a regional flexibility, that which is even more important so a consumer group can be heard.

**Point 27** This is not enough, see general comments on GMO.

**Point 28** – Should be reworded “For a long time the requirements placed on certification operation in general have been assembled in the accreditation criteria ”EN 45011” which is identical to ”ISO 65” and thereby global. Specific conditions for organic certification operations are found in IFOAM Accreditation Criteria. By requiring that those who carry on certification according to this Regulation fulfil EN 40511 or IFOAM Accreditation Criteria, it is ensured in a recognized way that the producer fulfils the Regulation A requirement for fulfilment of Regulation 882/2004 is less appropriate since this Regulation is made for feed and food legislation.

**Point 30** – Remove the point or else write: ”Certification practice, fees etc. are regulated just as the entire certification operations through fulfilment of EN 45011 or IFOAM Accreditation Criteria. Accredited certification bodies in addition shall be able to operate freely within the Union, and national certification shall not be required.”

**Point 32** – Also IFOAM's certification system should be accepted, it is also global.

**Point 34** – Gathering of statistics should be the task for national statistical bureaus such as SCB in Sweden and the equivalent in other EU and countries.

## Title I – Subject matter, scope and definitions

### Article 1

1. We suggest that the Article be changed to read:

1.	The objectives, principles and rules concerning
a)	<u>primary</u> production, <u>processing</u> , placing on the market, import, export and inspections of organic products are established by this Regulation.
b)	use of indications referring to organic production in labelling and advertising.

THE ARTICLE SHOULD REASONABLY HARMONIZE WITH POINT 3, SEE BELOW.

2. We suggest that the Article be changed to read:

2.	This Regulation shall apply to the following products originating from agriculture or aquaculture, where such products are intended to be marketed as organic: to be marketed as organic:
a)	plant and livestock products and livestock, <u>including aquaculture products</u>
b)	Processed plant and livestock products, <u>including aquaculture products</u> , <del>that are intended for human consumption (below called processed food,</del>
c)	<del>live or unprocessed products of aquaculture</del>
d)	<del>processed aquaculture products that are intended for human consumption,</del>
e)	feed.
	However, it shall not apply to products of hunting and fishing of wild animals.

Aquaculture products are either animals or plants. In fact, there is no reason to distinguish these from terrestrial organisms in this Article. In other production-



specific articles or annexes, it can be warranted such as the different forms of animal husbandry and apiculture.

We suggest that the regulation shall be applicable to products intended for human consumption, but that it shall apply to all products from agriculture and aquaculture when referring to declaring ingredients - (*ingredient declaration*). For example, should “organic” milk be regulated as it is today, but a skin lotion can be marketed that is “made with organic olive oil”? This is further regulated in Article 14.

We suggest this change because it comes across as incomprehensible for consumers as to why an agricultural product should be regulated differently depending on the way in which it is expected to be used.

The consumers associate the concept “organic product” with a high-quality product. This concept needs to be protected from being damaged by marketing of products from related, but today unregulated areas. For instance, a skin cream containing olive oil is marketed as “organic” without the assertion being verified in any way and problems arise with the product, can damage confidence in organic food.

We believe also the use of the concept “organic” in marketing all types of products originating from agriculture and aquaculture needs to be protected - even in those cases where the product in itself is not food.

The opportunity to make a statement about ingredients - both about food and other products that contain organic raw materials - should also contribute to solving marketing problems for primary production.

The suggestion for a statement about ingredients contributes to developing the market at the same time that it protects the consumers' interests.

We will also remind that the Commission within DG Fish is working on a suggestion for ecolabelling for fishing. In the long run, it would be of importance that these two systems could trade with one another. At the present, we have no formulation to suggest for this but propose that this regulation is written so that trade is made possible.

3. We suggest that the Article be changed to read:

3. This regulation shall be applied within the European Community's territory to any operators involved in the following activities:
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- a) primary production,
- b) processing of food and feed,
- c) ~~packaging~~, labelling and advertising,
- d) ~~warehousing, transport and distribution~~,
- e) imports to and exports from the Community,
- f) placing on the market.

~~The Regulation shall, however, not apply to catering operations, factory canteens, institutional catering, restaurants or similar food service.~~

The Regulation shall, however, not apply to warehousing, transport and distribution of products in sealed packaging.

Removal of “packaging” is suggested to harmonize with point 1 in the Article. “Warehousing, transport and distribution” of packaged goods cause unmotivated expenses and red tape; these activities should thus be removed from the Regulation. This is particularly true for any inspection of a warehouse with packaged products. This type of inspection stands out as totally incomprehensible to the operators on the market. “Warehousing, transport and distribution” should also harmonize with Article 1 – either remove from both places, or be placed in Article 1.

We believe that professional food preparation shall be included in the Regulation. There is no reason that a restaurant that sells take away and at the same time sells the same or similar food for serving shall be included in one part but not the other. Or, an even worse scenario- that a lunch box prepared in a shop is included, while one prepared in a restaurant is not. It is in this respect that the production that is interesting. On the other hand, it can be debated what inspection measures and production rules are relevant for restaurants and catering. Here we suggest the statement about ingredients is a good way to tackle the problem. This means that if a restaurant wishes to inform that they serve organic potatoes it should be allowed to do so and the regulation shall be applicable.

4. We suggest that an additional point is included in the article with the following wording:

4. The regulation shall be applied so that:

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| <p>a) <u>The trade with organic products within and outside of the Community be facilitated</u></p> <p>b) <u>The interests and the safety of consumers in organic products is guaranteed</u></p> <p>c) <u>primary production, processing industry and service companies that work with organic products and raw materials considerable developed</u></p> |
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Our experience is that the supervising authorities in their interpretation of how 2092/91 shall be understood seek a clear guidance in interpretation. The proposal to the Regulation lacks a clear opening paragraph that guides Member States and the supervising authorities. With this formulation, the Member States must way three different main objectives against each other whenever the Regulation is ambiguous.

The background work, “frame of reference ” and “in view of... following reasons” also lack a clear principle that organic primary production shall be increased. We believe it is so obvious that it has not been included. For example, why should one have a plan of action, if the aim is not to increase organic production and processing? On the other hand, there are many references to consumer protection and free trade. To create equilibrium in balancing and clarify the ambition that organic primary production shall increase, so we believe that it is essential that point 4 be moved to Article 1.

## **Article 2 - Definitions**

We think the following definitions need to be changed, so that they read according following:

a) Organic production and processing is that which fulfils the objectives, principles and standards that are laid down in this Regulation.

b) organic product: a product from organic production

c) crop production: production of crops (alternatively agricultural and garden crops) and harvest of wild plant products with a commercial objective.

d) Reindeer are surely included in this definition? Is this the intention?

g) Usually, the concept of processing is used for food, change “preparation” to “processing” The original English text states – processing (*This is OK in the English version of the regulation, but not well translated to Swedish.*)

/ “Labelling ” is a concept that is also defined in food legislation. If this is the definition that is referred to, we suggest that there be a reference to the appropriate article and regulation. Since this has not been done, we assume that this definition is specific for this Regulation and we suggest that the definition be changed according to the following:

I) *labelling*: any words defined in Article 17 ~~words, particulars,~~ trademark, ~~brand name,~~ pictorial matter or symbol placed on any packaging, a document, notice, label, ring or collar that a document, ~~accompanying or~~ referring to a product referred to in the first subparagraph of Article 1(2).

The original definition is so comprehensive that there is a danger that in an interpretive situation it is perceived “whatever that a consumer can grasp as labelling.” A so restrictive definition is reasonable if the primary objective of the regulation is to protect the consumer. If the regulation has more objectives, the definitions should be eased somewhat to instead facilitate the development of the organic market, as an example. To include things such as “brand name” signifies a risk for confiscation of names such as KRAV.

k) the concept “control body” should be changed to “certification body”. The same definition that is in EN 45011 point 1.1 shall be used. ...“certification body” is used to cover any body operating a product certification system. The word “product” is used in its broadest sense and includes processes and services. With that, authorities that conduct organic inspections are included, and it can be clearer that even these shall fulfil EN 45011.

l) OK but control body must be changed to certification body

m) “Certification mark” is a better concept than “mark of conformity”

## **Title II – Objective and Principles for organic production**

### **Article 3 Objectives**

We suggest that a more inclusive description of the objective, where the aspect of recycling should be included.

We suggest the following wording:

The organic production and processing system shall have the following objectives:

The basis for organic production and processing is a concern for nature's underlying functions and global solidarity. The objective is to pursue a long-term sustainable and from the consumer point of view, inspire confidence in production of food and other high quality products.

The ambition is that in all stages (production, processing, distribution, etc.) to show consideration of the natural course and behaviour, as well as guide the activities so that:

- I) the capacity for long-term production of the land and the surrounding ecosystem shall be preserved and strengthened.
- ii) the biological and genetic diversity in the cultivated land just as in the production is protected and developed.
- iii) that use of energy and above all fossil fuels is minimized and other non-renewable resources, as well as discharge from pollution
- iv) use of manmade substances shall be avoided
- v) the good health of the animals is promoted and that it gives the possibility to natural behaviour, a dignified life and a dignified conclusion.
- vi) processing is carried out with the aid of selected methods that are gentle both to nature and the products and with a minimum of additives.
- vii) the farmer and others that are working in production are given a reasonable income, a safe working environment, contentment and satisfaction in the work.
- viii) organic products are accessible for all consumers
- ix) trade with organic products promotes an environmentally sound, social and economically sustainable development both when the product is produced and when it is consumed.

Organic production and processing strives to strengthen the tie between the rural and urban areas as well as between the producer and consumer, including transparency in the operations. A diversified and geographically widespread food production offers the greatest possibility for recycling of nutrients and soil raw materials.

3.b) can be removed if point 3 a is rewritten according to the suggestion above. Otherwise, the word “establish” should be changed to “develop”.

#### **Article 4 Overall principles**

4.c) appears as remarkable – the absence of GMO is not a superordinate principle for organic agriculture. It is rather a consequence of organic agriculture being based on a give-and-take with the ecosystem and applies the precautionary principle.

4.d) touches on the problem of equivalency, but offers no solution. Where are the boundaries drawn for when the local divergences can no longer be

accepted? The question is extremely difficult and this principle is not sufficiently well-formulated to solve any problems.

This article could serve an extremely important objective. If EU should be able to agree to a set of internationally established principles, it would be one of the first steps to truly solve the problems of international trade. If the different systems can have the same bases for principles, the conditions exist to be able to recognize other systems in spite of differences. If there is no agreement about the basic principles, mutual recognition will be immediately more difficult.

We suggest that EU accepts the principles for organic agriculture that IFOAM has developed during a global, two-year long process. All of the conceivable partners from throughout the world have participated. Many European stakeholders (researcher, farmers, trade associations etc.) have participated. These principles must be seen as the most cohesive and well-formulated definitions of organic agriculture that are available at this time. The principles are not yet translated into Swedish and therefore, we submit our suggestions in English.

We suggest that Article 4 shall read:

The following principles shall apply to organic production:

- a. **The Principle of Health** - Organic Agriculture should sustain and enhance the health of soil, plant, animal and human as one and indivisible.
- b. **The Principle of Ecology** - Organic Agriculture should be based on living ecological systems and cycles, work with them, emulate them and help sustain them.
- c. **The Principle of Fairness** - Organic Agriculture should build on relationships that ensure fairness with regard to the common environment and life opportunities.
- d. **The Principle of Care** - Organic Agriculture should be managed in a precautionary and responsible manner to protect the health and well being of current and future generations and the environment.

There is a more comprehensive theoretical explanation of these principles. **We have attached a deeper analysis of the meaning of these principles.** ([Principles\\_Organic\\_Agriculture.pdf](#))

### **Article 5 principles applicable to farming**

**Point 5 d** – It is very positive that this is included under “principles” instead of among the exceptions to the principles, which is the case for the current 2092/91. In this case, we interpret that, as an example, recycled household waste of animal or plant origin, just as by-products that have undergone

required processing and/or sanitizing according to the general legislation concerning animal products. It would be desirable with an addition to the concept of human waste or something that clarifies, with the objective of paving the way for separation of urine and certain types of sewage slurry.

**Point 5 j** See species Article 9ai

**Point 5 k** – The requirement that slow growing strains shall be used shall be removed. It can be appropriate to be dissociated from the most intensive forms of production and animal breeding material existing, but striving after slow growing strains works against the development of organic animal production for at least four reasons. In the first place, organic animal breeders in many cases are referred to the same animal breeding materials as the non-organic animal breeders. The organic sector does not constitute a sufficiently large basis for breeding of specific breeds/lines for organic production. By way of comparison, not even the entire Swedish poultry, egg and swine production is large enough to be able to pursue its own breeding program in Sweden. Consequently, it would be very difficult to breed materials specifically appropriate for organic conditions even if all of Sweden's poultry, laying hens and pigs were organic. In the second place, it must be permitted that even in organic production and processing to benefit from the genetic materials for domestic animals that are bred for good yield or other desirable qualities. Thirdly, the concept is misleading; slow growing strains are not necessarily sustainable. Finally, many of the most common breeds and crossbreeds work very well in organic production.

**Point 5 l** – Add “By-products from the food industry that by returning to the farm as feed contribute to completing the cycle can also be considered.”

## **Article 6 Principles applicable to processing**

In Swedish change the word “bearbetning” to “förädling”.

## **Title III – Production rules**

### **Chapter 1 – Farm production**

#### **Article 7 General farm production rules**

Point 1 – We think it is positive that the proposal makes both organic and conventional production in the same unit possible. It is important to stimulate to successive and market adjusted transition to organic production and make it possible for capable conventional producers specialized in a certain production

to test organic production without an all too great economic risk. It should, however, not be permitted to use GMO crops or GMO animals on the conventional part of the partially converted farm. Therefore, a sentence should be added at the end of point 1. “On the conventional part, neither GMO crops, GMO feed, nor GMO animals may be found.”

## **Article 8 Plant production rules**

**Point 8.1b** – The point should be changed to indicate that pasture or green manure can be included in crop rotation, and that animal manure and organic material from conventional production may be included in reasonable quantities. “...with the help of multi-annual crop rotation, with pasture or green manure, application of animal manure and organic material.”

**Point 8.1i** We are of the opinion that at the present, this is more of an objective than a reasonable principle that all seeds must be organic. The regulation shall not force the use of organic seeds for crops that are inappropriate for the region they shall be used in. We suggest the first sentence shall read “*Organically produced seeds and propagating material should be used when available and appropriate with consideration to the local conditions.*”. The requirement that perennial crops shall be produced organically for two growing seasons before the vegetative propagating materials can be taken can have a negative affect on the health of the plant materials and thereby create especially large problems for certain crops such as asparagus and strawberries. Thus, we are of the opinion that the following shall be removed “...or, in the case of perennial crops, for at least two growing seasons”.

**Point 8. 2b** The following addition should be made “...or the species or other species maintenance in the collection area.”

## **Article 9 Livestock production rules**

We think the following:

**Point 9 a I** is reasonable with the condition that an exception is made according to Article 16 for organic poultry. It must be possible to include “day-old” chicks from a hatchery that is not an organic unit. (change the concept “housing for keeping animals” to “animal house conditions”; in the English version, it states “housing conditions”).

**Point 9b iii** – shall be written as a general requirement for pasture for all animal species. Access to pasture is an underlying principle for all organic animal husbandry and also for poultry and swine, and strong consumer support. This should also be expanded to apply to all animal species. The current



regulation requires access to pasture for all ruminants/herbivores. The suggestion means a less restrictive policy that is unacceptable.

**Point 9b vi** – The phrasing is good if an exception can be made for dairy cows during the winter period, according to Article 16. It should be possible for conventional dairy farmers to join an inspection scheme without building a new cowshed. This would impede development of organic production.

**Point 9b vii** – The point should be expanded; separate standards for slaughter of organic animals need to be developed; there are consumer expectations about this.

**Point 9b ix** – The requirement to place beehives so that the pollen and nectar sources are essentially organic or wild plants is in force today but is difficult to inspect. We think that the standards for apiculture, just as for other rules for cultivation, shall be based on measures that the keepers can influence.

**Point 9b x** There is no reason to draw up separate requirements for the materials used in beehives or materials used in organic apiculture. Light and practical beehives that are simple to insulate during the winter and remove insulation in summer are important. There are no similar requirements in the other areas of organic production. Thus, this point should be removed.

**Point 9e ii** – It is very positive that this point is included in the regulation. Immediate treatment of sick animals with effective agents is a necessity so that organic animal husbandry shall live up to the high goals for animal welfare.

### **Article 11 Use of certain products and substances in farming**

It is good to have criteria for what may and not be used. This is one way to reduce detailed regulations and create predictability that is welcome. Point 2 however, may not imply all too detailed regulations.

### **Article 12 Conversion**

**Point a** is difficult to interpret. The following wording is suggested: During the beginning of a transition period (conversion period), the production shall be certified (be included in the inspection scheme) and comply with the rules in this regulation. When the production is approved for the transition period and the transition period has ended, the products may be marketed as organic.

**Point b, & c** Use the same concept as in point a “conversion period”.

## **Chapter 2 - Feed production**

### **Article 13 – Production rules for feed**

It is positive that Point 1 paves the way for spatial separation or separation in time for production of organic feeds.

## **Chapter 3 Production of processed products**

### **Article 14 General rules on the production of processed food**

The concept processed products should be changed to processed products/food.  
*(This comment is only valid for the Swedish version)*

We do not agree at all with the views in “Motivation” point 24 that the B-labelling of products with an organic content between 70 and 95 percent should be suppressed. On the contrary, we think the development during the last few years of organic production and processing where many countries in the Community have a surplus of organic raw materials that do not reach the market as organic products shows the existing rules do not work very well. We think that B-labelling shall be retained.

Over and above this, we think that the regulation shall make it possible to inform about the organically produced ingredients (“declaration of ingredients”). This paves the way for a more dynamic development where a larger share of organic raw materials can be sold as organic, a prerequisite for increased primary production. This also makes room for new types of products that can be made with organic raw materials, such as food intended for special nutritional purposes, baby food and products with lower fat content.

The declaration of ingredients should not only be on food, but all agricultural products. The declaration of ingredients should also be found in the restaurant trade. Certification shall otherwise comply with the regulation. (See also Article 1)

### **Article 15 Use of certain products and substances in processing**

**Point 2 and 3** should be removed. Hitherto, the enforcement of these points has not worked at all. The certification body can and should take the responsibility, and this is followed up during accreditation.

## **Chapter 4 Flexibility**

### **Article 16 less restrictive production rules**

It is very positive with the possibility for adapting the rules and regulations when special circumstances exist. Differences in climate, the development stage of organic production and processing in different countries and within different production sectors as well as the different agricultural structures can be reasons for this.

Initially, we think that the cases listed in Point 2 are sufficient and motivated.

It should be clarified that flexibility also shall be applied to production imported from a third country. This can be done either in this Article or in Article 27.

## **Title IV - Labelling**

### **Article 17 Use of terms referring to organic production**

To the extent of our suggested changes in Article 2.i) are not relevant under 2.i), we wish to state the same argumentation for Article 17 instead.

### **Article 18 Compulsory indications**

The regulation protects and defines the concept organic production and processing, nothing additional is needed, but creates only confusion. Thus, the Article can be removed in its entirety. This contributes to a simplification, which is one of the Commission's objectives with the regulation. It may be indicated that the product is organic and it is that which the Regulation shall regulate.

The ambition stated in the preamble, point 25, to create clarity with “a simple standardized reference should be made obligatory” is neutralized by contriving another concept than just “organic.” The concept “EU-organic” is in itself confusing and refers to origin (- is there USA organic and African organic also?). It is unlikely that consumers have a spontaneous positive opinion of the concept.

As the suggestion now stands, the packaging shall be marked with at least a code, and EU-organic or the EU mark. A discretionary label may also be included. For most packaging, this is entirely too much. This construction automatically penalizes the private, discretionary label.

If point 1a is retained, the wording should be changed to: “The code referred to in Article 22.7 or name or logo of the certification body that is competent to

carry out certification by the operator that is responsible for the final packaging or labelling of the product.”

The reason is that as Article 18, point 1 a is written now, the codes for all certification bodies that have carried out inspections are specified which is unnecessary. In the current rules, it is unclear if it is the final packer or the enterprise that is responsible for the labelling shall be indicated. We suggest that it should be possible to choose. For example, shall a product that is produced and packaged in Sweden for the German market indicate on the label SE EKOL 1, or KKAB, or KRAV's label or code or name or the logo for the certifier that certifies the German marketer?

### **Article 19 Community organic production logo**

The Article can be interpreted that the Commission will create a new logo. The current logo has its shortcomings, but has certain uses. The resources that would be used to create a new logo can instead be used to promote organic production, such as through the different labels that are used in different parts of the Community. There are already logos- for example, the German “BioSiegel” that is discretionary and accessible for all who fulfil the EU regulation on organic production. By regulating the concept “organic” and making a logo available, EU offers a framework for other operators to work within; additional labels are unnecessary. The point should be removed, alternatively include the current logos in different models in the respective languages.

### **Article 20 Label and advertising claims**

**The Article should be removed in its entirety.** Point 1 is contradictory and sweepingly worded. The regulation should also in addition indicate the minimum standard for organic production; those who want to use a stricter set of rules and regulations shall be allowed to do so and then it goes without saying, that they may describe the differences. This makes possible a competitive quality that contributes to the development of organic production and processing and the accommodation of different consumer groups' expectations.

In the preamble, point 24, it is stated “-it is also necessary to prevent other forms of misleading general labelling and advertising claims.” We are of the opinion that the objective is best reached by ordinary marketing legislation. The same provisions shall apply for all products on the market, regardless of whether or not they are organic.

It is important to allow consumers, producers and other stakeholders on the market to drive the development forward. The state's role should be to secure

an absolute minimum level for what organic production and processing signifies. This gives the consumers confidence at the same time it gives consumers who so wish to choose something that they believe to be even better. Just as today's organic production and processing was made possible through volunteer initiatives decades ago, consumers, producers and the trade today create the foundation for what can come to be the basis in 20 years. They do this by discussing and testing stricter standards for individual points. Do not let us put an end to the enthusiasm and the possibilities for development by prohibiting stricter requirements. Instead, let the market determine what is possible to accomplish.

### **Article 21 Specific labelling requirements**

We do not think that specific labelling regulations for feed are necessary or that products from production during transition must be specially labelled. It would be better to shorten the conversion period to accelerate the transition to organic production than to have special labelling.

If one wishes to have special labelling for products produced during transition, it can be stated “produced during transition to organic production”.

## **Title V - Controls**

### **Article 22 Control system**

It is important that the reference to regulation 882/2004 does not mean an increased exercise of official authority in organic certification. We are of the opinion that private certification bodies that are accredited according to EN 45011 or IFOAM's accreditation criteria shall have complete right of decision about certification including associated sanctions. This shall not be seen as an exercise of official authority. By requiring accreditation, or initially, compliance with EN 45011 or the IFOAM criteria, of the certification body that will conduct organic certification, it is only necessary for EU to work with the actual framework. In this way, the forms for inspection and certification can be developed for organic production and processing in the same way as for other certifications and there will not be any extra development costs or special treatment of organic production and processing. Accredited certification bodies should be able to operate freely within - and outside of the Union - and certify according to the set of rules and regulations in force.

The EU regulation should even in the future accept inspections carried out by authorities in those Member States that so wish. These should also fulfil the criteria in EN 45011/IFOAM criteria.

Most likely, the reference to 882/2004 should be removed in its entirety. The main objective of 882 is to control hazards and thus makes demands that are unnecessary in ordinary quality control. From a viewpoint of simplicity, it is not helpful that the regulations make cross-references to each other and contribute to a lack of clarity. If 882/2004 is changed it can have unforeseen consequences for organic production and processing without those who work with the organic rules and regulations being clearly aware of it.

The opening for risk-based control in Point 2 in the Article is very positive.

Point 6a may not stand in the way for cooperation between different certification bodies. Especially important is that the certification bodies being developed in Third World countries can be approved in different ways. One way could be a mutual recognition between such a certification body and one established within the EU.

### **Article 23 Adherence to the control system**

We are of the opinion that points 1 and 3 shall be removed as they superfluous and risk creating internal conflicts in the rules. Point 4 shall be removed since it occasions unmotivated expenses. Point 2 needs to be clarified.

#### **Point 1**

Adherence can be accomplished by signing a contract with one of the certification bodies recognized for certification according to the regulation, or the authority that provides such inspections. The application to the competent authority is otherwise superfluous. EN 45011 and IFOAM's criteria regulate both, just as for other certification, that those who shall be certified must submit to inspection. Since the application of EN 45011 is regulated in Article 22, repetition in Article 23 point 1 can be removed.

#### **Point 2**

It is positive that those who only store packaged products in connection with the point of sale are exempted from the requirement to be certified. Further, KRAV is of the opinion that warehousing, transport and distribution of products can be exempted from inspection. See our motivation for this under Article 1.3.

There is an ambiguity in point 2. If it is so that it shall or can be understood that retailers and restaurants that sell organic products as single items or process the products themselves do not need to submit to inspection, we do not agree. Those who open the packaging and process to later sell shall submit to inspection, possibly with exceptions for businesses that solely work with organic, but then even this must be verified with a simplified inspection.

#### **Point 3**

Even point 3 can be removed, since EN 45011 (the point is regulated in Article 22) and the IFOAM criteria both regulate that certification shall be open to all those who comply with the rules. As the Member States shall ensure that the system is introduced, it only creates a duplication. The IFOAM criteria in addition include the rules for the fees that are charged to certified operators.

We are of the opinion that the authorities should not be involved in the setting of fees; partly because such a rule puts unreasonable demands on the competence of the authorities to assess the plausibility of the inspection bodies' budgets and partly because the price is best controlled through free competition on the inspection market. For those Member States that choose to have a totally public system, of course problems can arise (since there is no competition to compare with), but we assume that the affected operators in such cases will inform themselves of the situations in nearby Member States.

**Point 4** can be removed. It should not be the task of the competent authorities to maintain a list of all those who are certified. As EN 45011 and IFOAM criteria are applied to private certification bodies and inspection authorities, it is clear that these shall have public lists of those who are certified. This will be a faster and simpler handling and no double registers are necessary.

In addition, if there is a benefit with national register, as with all kinds of this type of administration it means an increase in costs for a system, whose greatest damper is the price difference in the consumer market. To develop the organic market, it is critical to avoid all expenses that are not of the greatest importance.

#### **Article 24 Certification**

We are of the opinion that the Article shall be removed. It seems to assume that the diversity of different labels found today is a problem for organic production. On the contrary, this contributes to recognition, the diversity within and the commitment for organic production.

Requiring that private certification bodies be accredited according to EN 45011 or IFOAM covers criteria, and that authorities shall ensure that the requirements are fulfilled when choosing such a control, the right to issue a certificate is covered. With that, Point 1 is fulfilled. (If the Point is to be retained, change the “and “ to “or” because the certificate for the same producer may not be issued by both the competent authorities and an approved certification body).

These criteria express very strongly that the basis for issuing a certificate shall only be when there is compliance with the rules (if there is an application for certification). With that, Point 2 is fulfilled since the competent authorities in those countries that have chosen the solution, issue the certificate/markings for

products that comply with the requirement of the EU regulations. That which remains is to organize the application process for labelling.

Point 3 attempts through force to remove private, well-established organic labelling's right to decide on the way in which their label shall be used. This will not advance organic production and processing or trade with organic products, but take away the value in the labelling existing today. It is not evident in Point 3 how conformity assessment decisions between different sets of rules and regulations shall be made. To create a burden of proof that a production does **not** fulfil a specific set of rules and regulations goes against all of the grounds for certification.

Our experience from our extensive recertification activities is that private accredited certification bodies can rather simply accept each other's methods of working and that it is possible to handle differences in standards. The problems arise with a governmental system that does not comply with EN 45011 and is included in quality control systems not in compliance with the standards. Private labelling is itself dependent on solving the question about recognition of other sets of rules and regulations for organic production.

We are of the opinion that the regulation also in the future shall give the possibility to take advantage of the resources that are in private labelling that comply with and sometimes place greater demands than the EU framework. This reinforces the basis for a continued dynamic development.

## **Article 25 Measures in case of infringements and irregularities**

The article is ambiguously written or else duplicates unnecessarily EN 45011 and IFOAM's accreditation criteria.

### **25.1**

Both EN 45011 and IFOAM's accreditation criteria handle how a certification body shall proceed to manage greater and lesser infringements before certification and during certification. These also handle how a certification body shall withdraw a certificate and thereby disqualify the production. In normal cases, it is assumed that all products are certified after leaving the operator during the time the production was certified. Thus, remaining to regulate

1. who does what if someone markets organic products without being certified to do so.
2. if it shall be believed that products from a certified production shall be able to be disqualified and in such cases, who shall do this.
3. how one can disqualify an operator from the system, i.e. when the principle that the system should be accessible for all is neutralized.



25.1 places all of the responsibility for follow-up on the competent authority, which goes against the accreditation criteria and also impedes flexible handling of both greater and lesser irregularities. In reference to point 1 above, we think that it must be the responsibility of the authorities. In reference to point 2, we think that it can be the responsibility of the inspection body, but that criteria for when a product from a certified production shall be rejected must be regulated in the regulation. Point 3 lies outside of the accreditation criteria and therefore should be decided by the authorities.

We suggest following wording:

1. The inspection body shall
  - a. Follow up verified infringements in accordance with the system stipulated in EN 45011 or IFOAM's accreditation criteria
  - b. Immediately report such infringements that have led to a disqualification of production to the competent authorities.
2. The competent authorities shall
  - a. Prohibit operators that intentionally and seriously or in an otherwise especially serious way have diverged from rules of production, to sell the products bearing information on organic production methods for a period that shall be decided of the competent authority.
  - b. Ensure that those who are not certified according to this regulation may not sell products that inform of the organic production methods.

NB. The question of the criteria for when a certified production shall be disqualified is still not solved and needs to be developed in the continued work with the regulation.

## 25.2

It seems to us that even this section of the Regulation is fuzzily written and places an unreasonable burden on the competent authority. We understand it that the Commission sees a need to be able to establish a system for alerts with manifest infringements that can jeopardize consumers' confidence in organic products. If the infringement is so great that it affects general food safety, we understand that other legislation takes over.

We are of the opinion therefore that it is relevant to ask what is the most cost-effective system to ensure consumer confidence. We believe that the operators and inspection bodies can accomplish this very well and only need the authorities' support in extreme cases such as the nitrophenol scandal in Germany. Possibly, it can be thought that the authorities' tasks include seeing to it that the inspection bodies' signal systems function.

We suggest following wording:

3. If a product from a certified production is rejected and may no longer

be identified as organic,

- a. it is incumbent upon the operator concerned to trace the actual consignment along the chain of custody and inform those who own the consignment that it shall be stripped of labels and marks.
- b. it is incumbent upon the affected operator to notify the inspection body of where the consignment has been sent and what measures have been taken
- c. it is incumbent upon the certification body to act appropriately to ensure that the removal of labels and logos from the operators in their inspection scheme.
- d. it is incumbent upon the certification body to notify other affected certification bodies
- e. it is incumbent upon the certification body that in especially serious cases, notify the competent authorities
- f. it is incumbent upon the competent authority to notify other Member States and when appropriate the also Commission.

If one is very precise, there should be a requirement that the operators shall know how they should handle themselves with serious divergences, that the inspection body has a system for handling these types of problems and finally, that the competent authorities shall have a plan for taking care of the truly serious cases.

### **Article 26 Exchange of information**

Article 26 is too ambiguous. Perhaps the Commission has legal support for a legitimate exchange of information, but we think the current construction can be abused and cause unnecessary bureaucracy and with that expense.

There is also a reason to be cautious with exchange of information for a reason more connected to the certification process. Voluntary certification is built on trust between the certified and the certifying body. The trust gives the certified the possibility to be entirely open and to offer a complete account of the operations, without needing to worry that the information will be spread outside of the certification body. This is a delicate issue, but just this issue is a reason that both EN 45011<sup>3</sup> and IFOAM Accreditation Criteria<sup>4</sup> have explicit rules for confidentiality.

To affirm the consumer's right to protection, the producer's right to confidentiality and the need for a minimal bureaucracy in the system, we propose the following change:

<sup>3</sup> See EN 45011 (1996) 4.10

<sup>4</sup> See IAC (2005) 1.3.4; 1.3.6; 3.5.3; 4.1 and 5.4.1

1. Upon request, duly justified by the necessity to guarantee a product has been ~~produced~~ marketed in accordance with this Regulation, the competent authorities and inspection shall exchange with other competent authorities and inspection bodies relevant information if ~~the outcome of the inspections~~ a product's attributes and status as organic. ~~They may also exchange such information on their own initiative.~~ Such an exchange may not include information on specific production, if no particular reason exists.
2. If a producer changes certification bodies, the approved certification body shall deliver all relevant results from the inspection to the certification body taking over the inspection of the producer. The obligation to deliver information is retroactive for two years.

The changes in point 1 aim at focusing on the attributes of the product (such as traces of pesticides and other serious problems), which probably are less sensitive than the actual production. The consumer in such cases is not primarily interested in the production, but rather in the product. The sentence “They may also...” is removed since it is superfluous.

The changes in point 2 aim at a free flow of information about the production between certification bodies when necessary, i.e., when a producer changes certification body. With this wording, problems are avoided with the producer attempting to jump between certification bodies until finally one accepts the weaknesses that others reject.

### **Article 27 Import from third countries**

The Regulation's Article 27 means a step forward compared to the current system. The existing process with approval of products from third countries is retained. The conditions for this seem to be rather like those now in force (according to Article 11.1-4). The direct reference to *Codex Alimentarius* is positive. IFOAM Norms should also be referred to. This further increases the possibilities for entry into the market. For example, India's legislation for organic cultivation is largely a copy of IFOAM Norms. Of vital importance here is how the requirements for equivalency are handled. There should be a reference to Chapter 4 Flexibility, and clarification that the flexible approach also should be applied to imports (to an even greater extent).

To be able to simplify imports, the proposal must indicate that the certification body that will be approved according to Article 11.5 is not burdened with additional requirements for individual import permits for products.

We view it as positive that Article 11.6 shall be phased out but on the condition that the work with approval of certification bodies takes place in such a way that all certification bodies in a third country that can show their competence in

a credible way can be accepted within a reasonable time and without unreasonable expense.

## **Title VII**

### **Final and transitional rules**

#### **Article 28 Free movement of organic products**

This should be superfluous! Clearly all products produced according to the Regulation shall be allowed to be sold as organic in the entire Community.

#### **Article 31 Management Committee on organic production**

A prescribed committee of the current model is likely to be preferred to ensure the Member States' influence. However, the handling of the changes needs to be more speedily expedited.

#### **Article 32 Implementing rules**

a) Since the details are critical for how the regulation can be implemented, it is important that the stakeholders have a decisive influence over the manner they are drawn up.

b) There is no need for special labelling rules; the Regulation regulates the concept “organic”.

c) As mentioned earlier, by referring to EN 45011 or IFOAM criteria, the necessary requirements for the certification body and inspection authorities are covered. Additional requirements are unnecessary.

d) The point is difficult to understand! Clarification is necessary.

#### **Article 35 Entry into force and application**

Reasonable introduction times are fundamental according to EN 40511, IFOAM criteria and ISEAL Code of Good Practice for Setting Social and Environmental Standards. A regulation such as this, of course, must also live up to these!

With best regards,

Lena Söderberg  
CEO, KRAV Incorporated Association