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Working for organic farming in Europe

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Joao Onofre,
Head of unit, H3
DG Agriculture and Rural Development
European Commision
Brussels

Dear Mr Onofre,

EU/US equivalence agreement: Question List

The IFOAM EU Group herewith presents a list of concerns raised by European stakeholders in the light of the EU/US organic equivalence agreement that came into force on 1st June 2012. This follows the letter of the IFOAM EU Group letter sent on 25th July 2012 on control measures for farm production that will enable the sale of livestock products from the EU that meet the US requirement for freedom from antibiotics.

I would like to highlight that in addition to the questions below it is important that the USDA specifies the requirements for production of antibiotic free livestock products. We would like to know if the pre-existing requirements for NOP compliant production (at farm level and through the processing supply chain) will be compliant.

1. Inputs and pesticide residues

Background: According to the USDA regulation, non-synthetic inputs are all allowed except the ones listed in the standard, and synthetic inputs are all prohibited except the ones listed in the standard.

According to the EU regulations, only inputs listed in the annexes of Commission Regulation (CE) No 889/2008 are allowed.

There are a number of differences between the inputs allowed or prohibited in the two organic regulations: for example USDA-NOP details how compost and manure have to be produced and recycled on the organic farm; ferric phosphate as molluscicide is not allowed in US; lecithin and calcium hydroxide are not allowed as fungicides in US; additives like talc, argo, helium, sodium tartrates, sodium nitrite, potassium nitrate, vegetable carbon, sodium ascorbate, sodium lactate are not allowed in US.

The NOP regulation allows a small number of inputs not permitted in the EU according to the EU organic regulation. For example Gibberellic acid may be used under the NOP. As an example of an issue, the use of Gibberellic acid is of concern since it is a substance used to achieve larger seedless grapes. It is likely that use of this substance by US producers will disadvantage EU certified table grape growers,

who are unable to produce organic table grapes of a size that can compete with US grapes produced with the Gibberellic acid.
Further the NOP regulations permit use of certain fortifiers and non organic plant derived colours. As for colours, the EU regulation permits none, except annatto for specific cheeses. In general the requirements for additives and processing aids have many important differences. It is important that the EU does not permit unfair competition between imported products compliant to the NOP standard and that are not also compliant with the EU organic regulations. Currently, organic products in the EU would not be permitted to use colours and other additives that are permitted in the NOP standards.

More important is that fortification is also permitted in the NOP standards. These are not permitted in organic market in Europe. If NOP compliant organic products are permitted on the EU market that are not produced to the EU organic standards there will be unfair competition and confusion amongst European organic consumers.

The NOP includes a requirement that pesticide residues in NOP certified organic products must not be greater than 5% of the US Environmental Protection agency maximum levels for conventional products. The EU has no corresponding legislation so some member states, control authorities and certification bodies have set their own levels.
(see for example the IFOAM EU Group Guidelines at
http://www.ifoam.org/about_ifoam/around_world/eu_group-new/workareas/regulation/php/guidelineresidues.php)

The situation where a crop complies with US requirements but exceeds levels permitted in the EU is to be expected. Practically this will result in loss for the EU importer if the product is decertified by the relevant EU certification body.

There are important differences in the GMO legislation in US and EU creating uncertainties on residues of GMO and on products produced “from” and “by” GMO in products or ingredients bought in US.

Q: *What is planned by the Commission to avoid unfair competition and confusion of the consumer? For example organic products from US marketed in EU including fortification with supplements not legally permitted in the EU) clearly in contradiction to the requirements of article 6 b) of Council Regulation (EC) No 834/2007 and article 27 (1) f) of Commission Regulation (EC) No 889/2008.*

Q: Will the pre-existing requirements for NOP antibiotic free livestock products apply? EU organic producers have supplied US markets under NOP programme. Unless otherwise specified, it is assumed that these pre-existing requirements will apply for organic livestock products to be put on the US market.

Q: *Is it possible for an EU based importer to import to the EU a product produced in the US, labelled with the EU logo, that contains fortification with vitamins and minerals not legally required in that product and which could not be used in the same organic product produced in the EU? Examples would include cereal bars and vegetable derived milk type products (e.g. soya milk) etc.*

Q: *Considering the aforementioned differences, is it possible to use in the processing of an organic food in Europe an organic ingredient bought from the US containing additives or supplements not accepted in the EU Regulations (In accordance to article 19 (2) b) of Council Regulation (EC) No 834/2009) but allowed in the US?*

2. GMOs control

Q : *How should the requirement of article 9 of Council Regulation (EC) No 834/2007 be applied from an EU operator for organic raw materials and ingredients from US, bearing in mind that in the US no legal framework comparable to Regulation (EC) No 1829/2003 exists?*

The same question applies to the consumer perception towards GMO and products produced "from" or "by" GMO and GMO derivatives in organic food produced in Europe. How is it possible to ensure that the same is possible with organic products from US.

The topic of GMO is a very sensitive in Europe from the point of view of consumer perception. Organic raw materials in the US tend to have higher levels of GMO contamination, likely to be the result of more widespread production of GMO crops in the US. The requirements for GMO exclusion in NOP are relatively general and not very detailed; furthermore, the legal basis for the exclusion of GMOs from the organic supply chain in US is not comparable to the EU situation.

Q : *What is the Commission planning to address this problem?*

3. Labelling requirements

Q : *How exactly will the labelling requirements from NOP be transferred into the labelling requirements of article 23 (3) of Council Regulation (EC) No 834/2007 and conversely, with reference to the NOP standards regarding product composition (NOP: §205.301)?*

IFOAM EU Group is concerned that foods for which the term "organic" can only be used in the ingredient panel (<95% organic in EU and <70% organic in US). There are significant differences in the regulations governing the use of additives in these categories between the EU and the US. Specifically; only additives allowed in organic production in the Commission Regulation (EC) No 889/2008 can be used in EU whereas in US all the additives allowed according to general food law are permitted in that category of food.
See table in annex I.

4. Export to US from equivalent TCs (eg.Switzerland) or other TCs (eg. Norway)

The equivalence agreement covers products produced in EU and products with ingredients coming from Third Countries (TCs) provided that they are processed and/or packaged in the EU. Organic operators based in TCs are not covered by the equivalence agreement, and if their products are intended for export to the US, they

need to be supplied with accompanying NOP certification. Currently, and as a result of the agreement there are very few NOP certified suppliers in the EU, CBs that were accredited to the NOP are not expected to continue to offer NOP certification. Consequently, unless these issues are resolved, there is a risk that EU organic producers will be cut off from the US-market, especially in EU-countries that already have close trading contacts with TCs.

Q : *How can EU organic producers avoid the need for equivalent products to re-certified according to the NOP? If this is necessary, it would contradict the sense of the agreement, by reintroducing NOP accreditation in the EU through the back door?*

With thanks and best wishes,

Marco Schlüter
IFOAM EU Group Director

Annex I

Comparison labeling requirements US-EU			**In EU labeling system**		
NOP	§ 205.301 product composition	additives	**EU**	Council Regulation (EC) No 834/2007	open questions/remarks
100% Organic/Bio	(a) Products sold, labeled, or represented as "100 percent organic."	no additives	> 95% organic/bio	Labelling *art. 23 (4) a)*	In NOP no additives allowed
>95% Organic/Bio	(b) Products sold, labeled, or represented as "organic."	additives according to Subpart G	> 95% organic/bio	Labelling: art. 23 (4) a)	
> 70% made with organic	(c) Products sold, labeled, or represented as "made with organic (specified ingredients or food group(s))."	additives according to Subpart G	ingredients list	Labelling: art. 23 (4) b)	
			product of hunting or fishing	Labelling: art. 23 (4) c) main ingredient: fish or wild animals	
< 70% Organic/ Bio Ingredients list	(d) Products with less than 70 percent organically produced ingredients.	all additives allowed	ingredients list	art. 23 (4) b)	In Nop use of all additives of general food legislation allowed
			product of hunting or fishing	art. 23 (4) c) main ingredient: fish or wild animals	In Nop use of all additives of general food legislation allowed