

Traceability and fighting fraud

Organic integrity beyond certification and Quality Management Systems

When organic standards and regulations were introduced by the private sector as well as public authorities the aim was to develop a system of standards, inspection and certification, and accreditation – all respectively supervised – that safeguards the integrity of the organic market and ensures that the confidence of consumers in organic products is justified. Since the very beginning there has been much debate about the standards and regulations. However, the critical report by the European Court of Auditors (ECA) in 2012 evaluating how the EU Organic Regulation was implemented sparked a lively discussion on improvements to the Regulation. This resulted in the EU Commission presenting a new Draft Regulation in March 2014, and the organic sector in Europe presenting proposals on improving regulation 834/2007 as well as the Commission's Draft. At the 3rd IFOAM EU Organic Processing Conference 'Future Challenges: Sustainability, Integrity, Quality and New Regulation' in Paris in November 2014, Gerald A. Herrmann, Director of Organic Services GmbH, presented an analysis of the approach taken by the Commission in its draft proposal. He suggested that the approach falls short of what is needed and should be amended, or even that the Commission should make a total shift in its approach if it is to install an effective and efficient system for preventing fraud in the organic market.

To begin with it is worth considering two of the conclusions made in the European Court of Auditors' Special Report No 9, 2012¹:

- 'Member States Competent Authorities encounter difficulties in ensuring the traceability of the organic products within the territory for which they have authority. Traceability is even more difficult to achieve for products crossing borders.'
- 'Controls should be strengthened to ensure that operators fulfil the regulatory requirements regarding traceability, in this regard, the Commission should clarify the roles and responsibilities of the different actors.'

The external evaluation, which was commissioned by the EU Commission, reported: 'The control system and the import regime have been subject to specific questions as part of the external evaluation. The external evaluation concluded that the overall control system of organic farming is largely adequate in terms of achieving the global objectives of the Regulation, but with shortcomings in its implementation and recommended a more risk-based approach.'

Even before presenting its new Draft EU Organic Regulation in March 2014, the EU Commission had worked on improving the existing system. Some of its actions in this process were:

- Establishing Regulation (EU) 426/2011, which made it clear that the traceability of each product carrying the organic logo of the EU at all stages of production, preparation and distribution is an important factor.
- Addressing the ECA's more pressing recommendations with the adoption, in April 2013, of Commission Regulation (EU) No 392/2013. This Regulation, applicable from 1 January 2014, amended the implementing rules on the organic control system (889/2008). It enhances the exchange of information along the supply chain, harmonises and strengthens the risk-based approach and calls on Member States to increase supervision of certification bodies by developing a catalogue of sanctions and improving the quality of their reporting to the Commission on the control activities carried out.
- In May 2013, adopting a proposal to review the Official Controls Regulation. This review is ongoing. In the Proposal for Regulation of the European Parliament and of the Council, it is referred to as Regulation (EU) No XXX/XXX (Official Controls Regulation).

Under the 'principal driven option' the Commission's March 2014 proposal states that 'a risk-based approach is expected to improve the effectiveness and efficiency of controls and contribute, together with a more reliable import regime, to fraud prevention ...'. It further elaborates that 'the risk-based approach to official controls is reinforced by removing the requirement for mandatory annual verification of compliance of all operators provided for in Regulation (EC) No 834/2007 in a way that operators with a low risk profile may be physically inspected less than annually, while higher risk opera-

tors would be more closely targeted.’ This statement makes it clear that the Commission’s approach is not meant to change the current control system in its structure, but to continue on the same lines as the current Regulation with specific adaptations only. The proposal continues by commenting on the risks associated with non compliance and contamination, stating:

- ‘With the organic production rules is considered higher in agricultural holdings which include units not managed under organic production rules.
- The nature of the supervision shall be determined on the basis of an assessment of the risk of non-compliance.
- Equivalence’ [increases risk].

It should have been possible to identify more ideas in the Commission’s March 2014 proposal regarding imports and traceability. Unfortunately, the Commission decided to define more details in future delegated acts (to be decided by the Commission), so that for now only a general impression can be gleaned from the text. For instance, the proposal states:

- (68) ‘The placing on the market as organic of any organic product imported into the Union, under any of the import arrangements provided for in this Regulation, should be subject to the availability of the information necessary to ensure the traceability of the product in the food chain.’
- (69) ‘In order to ensure fair competition among operators, the traceability of the imported products intended to be placed on the market within the Union as organic or the transparency of the recognition and supervision procedure for control authorities and control bodies within the context of import of compli-

ant organic products, and in order to ensure the management of the list of third countries recognised for the purpose of equivalence under Regulation (EC) No 834/2007, the power to adopt certain acts should be delegated to the Commission in respect of the documents intended for customs authorities in third countries, in particular an organic export certificate, in electronic form wherever possible, the documents necessary for the purposes of import, also in electronic form wherever possible, the criteria for recognition or withdrawal of the recognition of control authorities and control bodies in the context of import of compliant organic products, and in respect of the information to be sent by third countries recognised under that Regulation necessary for the supervision of their recognition and the exercise of that supervision by the Commission, including on-the-spot examination.’

Here the phrases, ‘traceability of the product in the food chain’ and ‘organic export certificates in electronic form’, are mentioned. In addition, in the ‘legal elements’ of the proposal the Commission writes on traceability and fraud prevention by stating ‘Specific provisions are introduced for purposes of enhanced traceability and fraud prevention: operators may not be controlled by different control authorities or bodies for the same groups of products across different stages of the organic chain.’

In the Official Controls Regulation (still under revision) the Commission suggests:

- Replacing Article 23 by the following: ‘3. (d) and 4. (b) methods and techniques for official controls additional to those referred to in Article 13 and Article 33(1) to (5), and

specific requirements for the performance of official controls aimed at ensuring the traceability of organic products at all stages of production, preparation and distribution, and at providing assurances as to compliance with the rules referred to in point (j) of Article 1(2);’

- and that in ‘... respect of the conditions and measures for the import of organic products into the Union shall be ascertained at border control posts, in accordance with Article 45(1) in Regulation (EU) No XXX/XXX (Official Controls Regulation). The physical checks referred to in Article 47(3) of that Regulation shall be performed at a frequency dependent on the risk of non-compliance with this Regulation.’

The purpose of these suggestions is to support the Commission’s aim of ensuring traceability and that risk schemes are applied across borders.

Additional clarity of the Commission’s approach is found in the definition of ‘traceability’:

- ‘Traceability’ means traceability as defined in point 15 of Article 3 of Regulation (EC) No 178/2002: ‘It is necessary to ensure that a food or feed business including an importer can identify at least the business from which the food, feed, animal or substance that may be incorporated into a food or feed has been supplied, to ensure that on investigation, traceability can be assured at all stages.’

Thus, the operators in third countries are expected to be able to provide importers or national authorities, at any time, information confirming the identification of the operator who carried out the last operation. This is with a view to ensuring the traceability of the organic product. See Chapter

VI, Trade with Third Countries, Art. 28 1. (c) and 2).

Such traceability is known as ‘one up – one down’, and is what food companies in Europe have to implement whether organic or not. Does this mean there is no difference between traceability in non-organic and organic supply chains? No, there is a difference: ‘organic’ by definition is a process certification, so that traceability can be established throughout the complete (cross border) supply chain. In non-organic systems this is not possible as cross border trade is often anonymous and information on the provenance of products is not provided. Quality management systems, which are product and not process orientated, are also asking companies to be able to identify one up – one down.

It is, according to the process definition in 834/2007, possible to trace and track a product along the supply chain. However, the Commission aims to improve this, being well aware that today such traceability is a more theoretical concept than functioning in practice. In most, if not all, the recent fraud and pesticide contamination cases in the organic system, within and outside the EU, it has not been possible to identify the supply chain within the given time frame of 14 days – if at all when dealing with imported products.

‘EU Commission made further suggestions intended to improve the workings of the Regulations:’

- Supervision, including provisions for accreditation.
- Information exchange (electronic certificates).
- Reference to Regulation (EU) No XXX/XXX (Official Controls Regulation).
- Improved import system (compliance, export certificates) and bilat-

eral agreements.

- Risk assessment (no mandatory yearly inspections, group certification, full farm conversion and others).
- Mandatory residue analyses.
- No exceptions.

All the important key words – risk, transparency, traceability, strengthening, fraud prevention, fraud, etc. – are mentioned in one way or another.

Does this mean that the current problems with the implementation of the EU Organic Regulation will be solved, and that the questions raised by the Court of Auditors will not be raised yet again in the next evaluation?

In his presentation, Mr Herrmann answered this question with a clear ‘no’, saying ‘I believe that the EU Commission’s approach of “tightening some screws”, but not changing or, said another way, complementing the current focus on “control and supervision”, will not solve fraud in the organic sector. I believe it will also fail to build more confidence in the supply chain and overall with the consumer, which is one of the declared aims of the major revision (or the further development of the existing regulation.’

Let’s look again at ‘supply chain traceability’ and how this can best be achieved. Traceability in the European Regulation relies on the ‘one-up – one-down’ concept. However, this system has difficulties in establishing full transparency. A better system that meets the requirements of full supply chain traceability is the concept of the Chain of Custody (CoC). This is a straightforward certification system that establishes transparency in a supply chain based on full transparency

of operators’ production volumes and or single batches. There are many examples of organisations that use CoC certification systems, e.g. the Marine Stewardship Council (MSC), the Association for Responsible Mining (ARM), the Forest Stewardship Council (FSC), the Aquaculture Stewardship Council (ASC) and Bonsucro and many more.

If this is the case, why is this system not being favoured over the ‘one up – one down’ system in the EU Organic Regulation? The main reason is that it is much easier to establish a CoC system for a single standard or regulation applicable to all products handled under one programme.

‘Organic’, as defined in the Regulation 834 and in the March 2014 Draft, is not a Chain of Custody (CoC) certification; it is an individual operator certification, with each only knowing its last supplier. In case of an infringement or contamination it takes weeks, even months to establish the supply chain upstream to the source of contamination – which might be with the first producer – if it is possible at all.

To effectively fight fraud in the organic market it is necessary that certification moves to the Chain of Custody system. Yes, it is more difficult to establish CoC in multiple regulation/ standard systems like in the organic sector, which has more than one entity guaranteeing that everybody involved is registered under the same programme. However, with improved transparency and significantly reduced fraud it would be worth the effort.

There is another aspect that deserves attention when the aim is to fight fraud efficiently.

Traceability in the European Regulation relies on the ‘one-up – one-down’ concept.

news shorts...

THE NEW ORGANIC REGULATION ON DEBATE AT BIOFACH

At BioFach this year, policy makers and experts in the organic movement will discuss the proposal for a new Organic Regulation and the European Organic Action Plan published on 24 March 2014 by the European Commission. The meeting, to be held on 11 February, will have two panel discussions, one moderated by Marco Shulüter, Director of IFOAM, and the other by Bavo van Idsert, IFOAM EU board member. Both panels will involve the participation of policy makers and representatives as well as members of the European Commission and the European Parliament and the Ministries of Agriculture of Germany, The Netherlands and Latvia, IFOAM and IFOAM-EU members and a representative of Alnatura, a German chain of organic supermarkets.

The meeting was organised by IFOAM-EU in cooperation with BioFach. ■

More information at: www.ifoam-eu.org/en/events/stakeholder-conference-organic-regulation-review



The organic system requires each operator to know their supplier and to ensure that the product they buy is certified organic. Proof of certification is provided by the seller by supplying a certificate, which might be on paper or as pdf file. The buyer has to verify whether the certificate is valid, not out of date or fraudulent, every time they make a purchase, investing staff time and thus resources.

However, despite every effort made, most fraud cases detected in the market are based on fraudulent certificates. Certificates may be falsified by the seller themselves or in a conspiracy with a person working in a certification body; in the latter case the certificate is real and cannot be identified as fraudulent by the buyer.

Several issues can be identified in this system:

- Certification databases are stand-alone, and not connected which would allow for greater traceability.
- Trade is dependent on static (paper and pdf) certificates.
- Certification status and data cannot be verified in real time.
- Detailed data, such as information on fields and yields, is not available to the buyer.
- Costs for establishing full supply chain traceability for single companies is prohibitive.

If fraud is to be fought efficiently proof of evidence of certification needs to be de-linked from the seller supplying the product. Proof of certification should be provided by the certification body in real time, either directly from its certification database

or through transaction certificates sent by the certification body to the buyer. In our times of sophisticated IT-tools allowing for real time proof should be the preference rather than depending on paper/pdf transaction certificates. IT-tools also allow for uninterrupted supply chain traceability.

Thus, the solution for effectively and efficiently fighting fraud in the organic sector is best done by coupling real time software-supported Chain of Custody systems that allow bridging multiple standards, inspection and certification systems.

Conclusion

In conclusion it would seem that the March 2014 Draft, as presented by the EU Commission, falls short. It does not solve the problem at the roots of organic regulation and it is too bureaucratic in nature. However, it should also be added that, even if this Draft Proposal is not implemented, the same issues apply to any attempt at making improvements to the current Regulation 834 with the aim of delivering on its promise: transparency and credibility for the organic sector and the consumer buying its food. ■

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¹The European Court of Auditors' report can be found at: www.eca.europa.eu/Lists/News/NEWS120626/NEWS120626_EN.PDF

Different solutions for achieving better traceability and transparency have been suggested by other market players within the organic sector. Some of these ideas will be analysed in a future article.

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