

## **New Rules for the EU Organic Food Market: Regulations (EC) No 837/2007, 889/2008, and 1235/2008: Questions and Answers**

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It is not easy to explain why Regulation (EEC) No. 2092/91 has been fully repealed and replaced by three different Regulations while the texts of the Annexes of Regulation (EEC) No. 2092/91 have been re-used and re-published practically unchanged in these new Regulations. Some aspects of organic food, such as labelling are now regulated in the new Regulations (EC) No 834/2007 (Council Regulation), No 889/2008 (Commission Regulation) and No 1235/2008 (third country imports) and the reader must make sure by zick-zack-reading to read all relevant parts in order to avoid to draw wrong conclusions from isolated parts of the regulatory texts. This zig-zag-reading requires some training and understanding of the new texts. The reason to split the previous uniform Regulation in three separate texts was to have one text with all the rules set by the Council and the Parliament, while other Regulations should be more clearly recognizable as Commission Regulations. So the reason for the revision was a question of institutional identity communication. Organic farmers can now better understand, which of the EU institutions is responsible for specific organic production and certification rules. However, there is one profound change:

Under Regulation (EEC ) No. 2092/91 non-organic farm inputs were only be used in organic farming under the condition **“need recognised by the inspection body”**. Annex I 2.1. of Regulation (EC ) No. 2092/91 permitted these inputs, such as slurry from conventional animal husbandry, only exceptionally and only as a complement. In order to decide on this need organic inspection bodies had to enter into an analytical exchange on the organic plan of the farm. This professional discourse resulted in a reliable, mutually agreed management basis for the organic farmer. The revised law still permits non-organic fertilisers only where the nutritional needs of plants cannot be met by organic management measures. It did not change the management rules. However, now farmers act on their own risk. They recognise a need and then they use positive-listed substances on their land. The control body reviews this practise. If it does not agree in its post factum review, it reports an infringement. When member states asked in the Standing Committee on Organic Farming (SCOF ) on May 26, 2008 to leave the system of need recognition intact, the Commission argued that this could not be done, since this was not foreseen by Regulation (EC ) No. 834/2007 by purpose.

Another important change is the new duality of organic equivalence and organic compliance imports into the EU: The new legislative EU organic import concept excludes organic certifiers, which have worked under the rule, that the national authorities of the EU member state review the equivalence of organic certification on a case to case basis. This procedure is replaced by one single review on the level of the central EU administration, which will result in two lists of organic certifiers recognized either as compliant or as equivalent. First the equivalence list will now be processed. Organic certifiers working in Non EU countries with the intention to certify for the EU organic food market may apply to be placed on an EU list of organic certifiers before 31 October 2009. The legal basis provides Regulation (EC) No 1235/2008. An informal guideline paper published by the EU Commission explains the Commission’s view of what is needed (for both see: <http://www.hpslex.com/materials.html>). Those organic certifiers who only operate in a country included in the EU’s „organic third country list“, will not need to apply. Those organic certifiers who apply in due time are likely to take the organic certification business from others who fail to apply. which do not fully meet the formal requirements will only be processed after their amendment one year later, end of October 2010. In 2010 a list of compliance organic inspection bodies with a permission to operate world-wide will be set up.