



Brussels, 24.3.2014
SWD(2014) 65 final

PART 1/3

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

Accompanying the document

**Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on organic production and labelling of organic products, amending Regulation (EU)
No XXX/XXX of the European Parliament and of the Council [Official controls
Regulation] and repealing Council Regulation (EC) No 834/2007**

{COM(2014) 180 final}
{SWD(2014) 66 final}

TABLE OF CONTENTS

| | | |
|----------|---|----|
| 1. | PROCEDURAL ISSUES AND RESULTS FROM CONSULTATION OF INTERESTED PARTIES..... | 1 |
| 2. | POLICY CONTEXT, PROBLEM DEFINITION, AND SUBSIDIARITY..... | 5 |
| 2.1. | CAP and CFP post 2013..... | 5 |
| 2.2. | Legislation on organic farming..... | 6 |
| 2.3. | Focus on the control system..... | 7 |
| 2.4. | Consistency with other policies..... | 8 |
| 2.5. | Problem definition..... | 9 |
| 2.5.1. | General problem..... | 9 |
| 2.5.2. | Problem tree..... | 10 |
| 2.5.3. | Specific problems and problem drivers..... | 11 |
| 2.5.3.1. | Supply and demand for organic products in the EU | 11 |
| 2.5.3.2. | Obstacles to the development of domestic supplies | 14 |
| 2.5.3.3. | Risk of loss of consumer confidence | 17 |
| 2.5.3.4. | Fair competition among producers not guaranteed and risks for the functioning of the internal market | 24 |
| 2.5.4. | Who is affected by the problem, in what ways and to what extent?..... | 29 |
| 2.6. | How would the problem evolve without a change in policy?..... | 30 |
| 2.6.1. | Supply..... | 30 |
| 2.6.2. | Consumer confidence, issues for the internal market..... | 31 |
| 2.6.3. | Socio-economic impacts of the current legislation..... | 33 |
| 2.6.4. | Environmental impacts..... | 34 |
| 2.7. | Does the EU have the right to act?..... | 34 |
| 3. | OBJECTIVES..... | 35 |
| 3.1. | General objectives and consistency with new CAP objectives..... | 35 |
| 3.2. | Specific and operational objectives..... | 36 |
| 4. | POLICY OPTIONS..... | 38 |
| 4.1. | Policy option 1: improved status quo..... | 38 |
| 4.2. | Policy option 2: market-driven option..... | 40 |
| 4.3. | Policy option 3: principle-driven option..... | 41 |
| 4.4. | Options discarded at an early stage..... | 44 |
| 5. | IMPACT ANALYSIS..... | 46 |

| | | |
|--------|---|----|
| 5.1. | Option 1 | 46 |
| 5.2. | Option 1A | 47 |
| 5.3. | Option 2 | 48 |
| 5.4. | Option 2.A | 50 |
| 5.5. | Option 3 | 51 |
| 5.6. | Option 3.A | 53 |
| 5.1. | Option 3.B | 54 |
| 5.2. | Simplification and administrative costs..... | 56 |
| 5.2.1. | Simplification associated with the options | 56 |
| 5.2.2. | Assessment of administrative costs | 56 |
| 5.3. | Conclusions on topics on which the Council had asked a report to the Commission..... | 58 |
| 6. | COMPARING THE OPTIONS – PREFERRED OPTION | 58 |
| 7. | MONITORING AND EVALUATION..... | 62 |

Executive Summary Sheet

Impact assessment on Proposal for a Regulation of the European Parliament and of the Council on organic production and labelling of organic products

A. Need for action

Why? What is the problem being addressed?

The overall objective of the EU political and legislative framework is the sustainable development of organic production. But, while organic farming in the EU is expected to develop in line with market developments, the EU organic land area has only doubled in the last 10 years, while the market has increased fourfold. There is a risk of limitation to the organic market expansion and a risk of limitation to the environmental benefits associated with organic farming. The main drivers are:

- regulatory and non-regulatory obstacles to the development of organic farming in the EU;
- a risk of erosion of consumer confidence, notably because organic production rules are watered down and fraud cases are developing, in connection with shortcomings in the control system and in the trade regime,
- unfair competition among producers and risks for the functioning of the internal market, because of gaps in the legislation and implementation and enforcement failures.

What is this initiative expected to achieve?

In the context of the 2020 CAP reform, the proposal aims at:

- removing obstacles to the development of organic production in the EU,
- improving the legislation in order to guarantee fair competition for farmers and producers and to improve the functioning of the internal market,
- maintaining or improving consumer confidence in organic products.

In addition, the initiative is part of the Commission's Regulatory Fitness and Performance Programme and aims at simplifying rules and their implementation and at reducing administrative costs for administrations and operators.

What is the value added of action at the EU level?

The current exercise is an updating of an existing scheme set within the CAP. Production and trade of agricultural products and foodstuffs on the internal market and ensuring the integrity of the internal market are matters of EU competence. Both are EU shared competences with MS. An EU-wide scheme is more efficient than 28 different schemes and allows for a stronger and more consistent trade policy vis-à-vis global trading partners, most notably by enhancing its bargaining power. Areas where further harmonisation is needed: exceptions to the rules, procedures in case of presence of non-authorized substance residues in organic products and cases of non-compliances where products lose their organic status are addressed.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

A wide range of options, including the 'no policy option', have been considered. Three policy options have been assessed in depth. The *improved status quo option* notably includes clarifications in the scope of the legislation, simplifications in the labelling rules and addresses some gaps in the legislation. The *market-driven option* aims at providing the conditions to respond dynamically to further market developments thanks to a more product-oriented scheme with flexible production rules. The *principle-driven option* aims at re-focussing organic farming on its principles. Production rules are strengthened; the control system is fully risk-based; import rules are overhauled. The preferred option is the *principle-driven option* including sub-options to introduce group certification for small farmers and the obligation for organic processors and traders to run an environmental management system (EMS). The three options include a legislative proposal. The *market-driven* and the *principle-driven* options include an EU Action Plan.

Who supports which option?

In May 2013 the Council called for a review of the EU organic farming legislation and of the 2004 Action Plan. The public consultation has shown that citizens would like to see organic production rules further harmonised and strengthened. The stakeholders of the organic sector, notably IFOAM EU (European branch of the International

Federation of Organic Agriculture Movements) and COPA COGECA consider that the EU organic legislation should remain close to the principles and values of the sector; both started by cautiously supporting the *improved status quo* but have made steps towards the *principle-driven option*. The principle-driven option is supported by other organisations (the European Coordination Via Campesina, animal welfare organisations, etc). The *market-driven option* is supported notably by Eurocommerce.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise main ones)?

The preferred option is expected to remove obstacles to the development of organic farming in the EU thanks to clearer and simpler production rules. The removal of exceptions will lead to the development of organic inputs, notably seeds. The implementation of the action plan will bring more synergies with other EU policies, help addressing specific needs of the organic sector and improve access to third country markets. Fair competition will be improved notably thanks to simpler and clearer rules and to the move from equivalence to compliance for CBs in third countries. Consumer confidence will be addressed with stricter production rules taking into account evolving societal concerns (animal welfare, EMS for processors and traders). Fraud prevention will be higher, thanks to a more efficient control system, based on risk-assessment, and a more reliable import regime. Because of incomplete data notably on the economics of organic farms and operators, on prices, on the market size and on trade flows, impacts mentioned in the report are only qualitative.

What are the costs of the preferred option (if any, otherwise main ones)?

Some producers will have to leave the sector because they want to keep a part of conventional production on their holding, or because their system depends on exceptions. Production costs could be higher because of stricter rules. Stricter rules can be seen as a barrier to conversion, notably because insufficient availability of inputs such as seeds in their organic form when stricter rules are implemented. Higher production costs could lead in the short term to a market contraction because of higher consumer prices, but this should not continue in the medium and long term, since the development of inputs in their organic form, more adapted to organic production, should boost organic yields. The introduction of an EMS entails additional costs for operators the first year it is implemented, but they should be compensated by energy savings afterwards. Because of incomplete data notably on the economics of organic farms and operators, on prices, on the market size and on trade flows, impacts mentioned in the report are only qualitative.

How will businesses, SMEs and micro-enterprises be affected?

Micro-enterprises will be exempted from the requirement to apply an EMS system.

Small farms are under-represented in the organic sector. While 69% of all agricultural holdings have less than 5 ha, only 18,7% of organic holdings have less than 5 ha. The requirements for small farms, including those with processing activities, will be simplified if they apply group certification which will be introduced in the preferred option. The option will bring more legal clarity. The preferred option also entails much simplification and a reduction in the administrative costs. The number of information obligations for operators will be reduced by 17 out of the existing 80.

Will there be significant impacts on national budgets and administrations?

The preferred option entails much simplification and a reduction in the administrative costs. The number of information obligations will be reduced by 20 out of the existing 41.

Will there be other significant impacts?

Third countries and international relations: stricter rules in the preferred option involve a review of existing equivalence arrangements. Issues for developing country producers are addressed through the introduction of group certification.

Social impacts: there are indications that organic agriculture is more labour intensive than conventional agriculture, therefore its development should facilitate new job creation.

Environmental impacts: positive on biodiversity, water quality, soil health and quality. Energy savings with EMS imposed for processors and traders. Animal welfare conditions improved.

D. Follow up

When will the policy be reviewed?

The policy review is included in the 2014 CWP. After that, the policy will be reviewed according to a regular cycle.

LIST OF ACRONYMS

| | |
|---------------------|--|
| AGOF | Advisory Group on organic Farming |
| CA | Competent Authority |
| CAP | Common Agricultural Policy |
| CB | Control body or control authority |
| CERTCOST Farming | Economic Analysis of Certification Systems in Organic Food and |
| CFP | Common Fisheries Policy |
| COPA-COGECA | Committee of Professional Agricultural Organisations and General Confederation of Agricultural Cooperatives in the European Union |
| DG | Directorate-General |
| DG AGRI | Directorate-General for Agriculture and Rural Development |
| ECA | European Court of Auditors |
| EGTOP | Expert Group for Technical advice on Organic Production |
| EU | European Union |
| BEUC | European Consumer Organisation |
| EMAS | Eco-Management and Audit Scheme |
| EMS | Environmental management System |
| EOCC | European Organic Certifiers Council |
| EIP | European Innovation Partnership |
| FADN | Farm Accountancy Data Network |
| FVO | Food and Veterinary Office |
| GMO | Genetically Modified Organisms |
| IAB | Impact Assessment Board |
| IFOAM | International Federation of Organic Agriculture Movements |
| IO | Information Obligation |
| ISSG | Inter-Service Steering Group |
| JRC | Joint Research Centre |
| MRL | Maximum Residue Limit |
| MS | Member State |
| NGO | Non Governmental Organisation |
| OFFC | Official Food and Feed Controls |
| OFIS | Organic farming Information System |
| RD | Rural Development |
| UAA | Utilised Agricultural Area |
| WTO | World Trade Organisation |

1. PROCEDURAL ISSUES AND RESULTS FROM CONSULTATION OF INTERESTED PARTIES

The impact assessment has focused on:

- **Legislative tools, in particular Council Regulation (EC) 834/2007¹ on organic production and labelling of organic products**, applicable since January 2009, which provides for the scope, principles, objectives and general rules for organic farming. Detailed rules for the production, labelling and controls of organic products are provided in Commission Regulation No 889/2008². Detailed rules on imports are provided in Commission Regulation No 1235/2008³. The report intends to analyse the impacts of a new basic legislative Act as well as the necessary implementation measures.
- The relevance of a new strategy for organic farming in the EU. The **European Action Plan for Organic Food and Farming⁴** adopted by the Commission in 2004 provided a basis for the policy development over the past years. All the actions have by now been completed or have become obsolete.

The review of the Organic Farming legislation is part of the Commission's Regulatory Fitness and Performance Programme (REFIT)⁵ which aims at identifying inconsistencies, gaps and ineffective measures, in order to simplify rules and their implementation and/or reduce regulatory costs for businesses and citizens without compromising public policy objectives.

Work on the impact assessment for the review of the organic farming policy⁶ was carried out by a **European Commission ISSG** set up by DG AGRI in June 2012. The first meeting of the ISSG took place on 12 July 2012.

All Directorates General (DGs) of the European Commission were invited to participate in the work of the ISSG, and in addition to DG AGRI, the following DGs were actively

¹ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1)

² Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.09.2008, p. 1)

³ Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (OJ L 334, 12.12.2008, p. 25)

⁴ European Action Plan for Organic Food and Farming Com (2004) 415 final of 10.06.2004.

⁵ Commission Communication on EU Regulatory Fitness of 12 December 2012 – COM(2012)746

⁶ The **Roadmap** on "Regulation of the European Parliament and of the Council on organic production and labelling of organic products – Review of EU political and legal framework for organic production" was adopted in September 2012

http://ec.europa.eu/governance/impact/planned_ia/docs/2012_agri_014_organic_farming_en.pdf

involved in the exercise: the Secretariat-General, the Legal Service, SANCO, ENTR, ENV, DEVCO, ESTAT, TAXUD, RTD, JRC, MARE, TRADE and CLIMA⁷.

The work on the impact assessment was carried out between June 2012 and September 2013, during which the ISSG held monthly meetings. The situation was analysed in depth thanks to **stakeholder hearings**, in which the ISSG listened to **72 stakeholders**: experts, academics and representatives of consumers, producers, retailers, operators, processors, third countries and associations representing third countries, traders, laboratories and researchers, animal welfare organisation. The hearings took place in the fall of 2012. The agendas of the meetings with stakeholders and their presentations can be consulted on the Commission web-site⁸.

Two AGOF meetings enlarged to the participants in the hearings were dedicated to the review. A final consultation meeting with the AGOF took place on 26 June.

MS, as competent authorities in charge of implementing the legislation, were kept informed and were consulted on technical aspects of the review. In addition, replies to a questionnaire addressed by the Irish presidency to the MS on the EU organic farming policy have been used (MS who transmitted their reply to the Commission).

A wide public consultation

A **public consultation through an on-line questionnaire** was launched from 15 January 2013 to 10 April 2013. It attracted high interest and almost 45.000 replies were submitted to the on-line questionnaire. In addition, about 1.350 additional contributions were received by the Commission.

The majority (96%) of responses to the on-line questionnaire were submitted by EU citizens, while 4% were sent by stakeholders, the majority of which were companies (57%) and industry associations and NGOs (18%). The main interests represented by the 1 827 stakeholders who replied to the questionnaire were those of farmers (48%); consumers⁹ (10%); processors (9%); advisory services (5%); researchers (4%); national associations (3%); traders (3%); public competent authorities/public control authorities/accreditation bodies (3%); retailers (3%); private CBs (2%); public authorities in non-EU countries (0.3%).

Citizens who replied to the questionnaire can be characterised by a relative high awareness of organic production: 83% of them declared to be regular consumers and 15% occasional consumers. The knowledge of the EU organic logo appeared to be high, with 79% knowing the EU organic logo (compared to 24% following the 2012 Eurobarometer's survey).

⁷ DG SANCO (Health and Consumers), ENTR (Enterprise and Industry), ENV (Environment), DEVCO (EuropeAid Development and Cooperation), ESTAT (EUROSTAT), TAXUD (Taxation and Customs Union), RTD (Research and Innovation), JRC (Joint Research Center), MARE (Maritime Affairs and Fisheries), TRADE (Trade) and CLIMA (Climate Action)

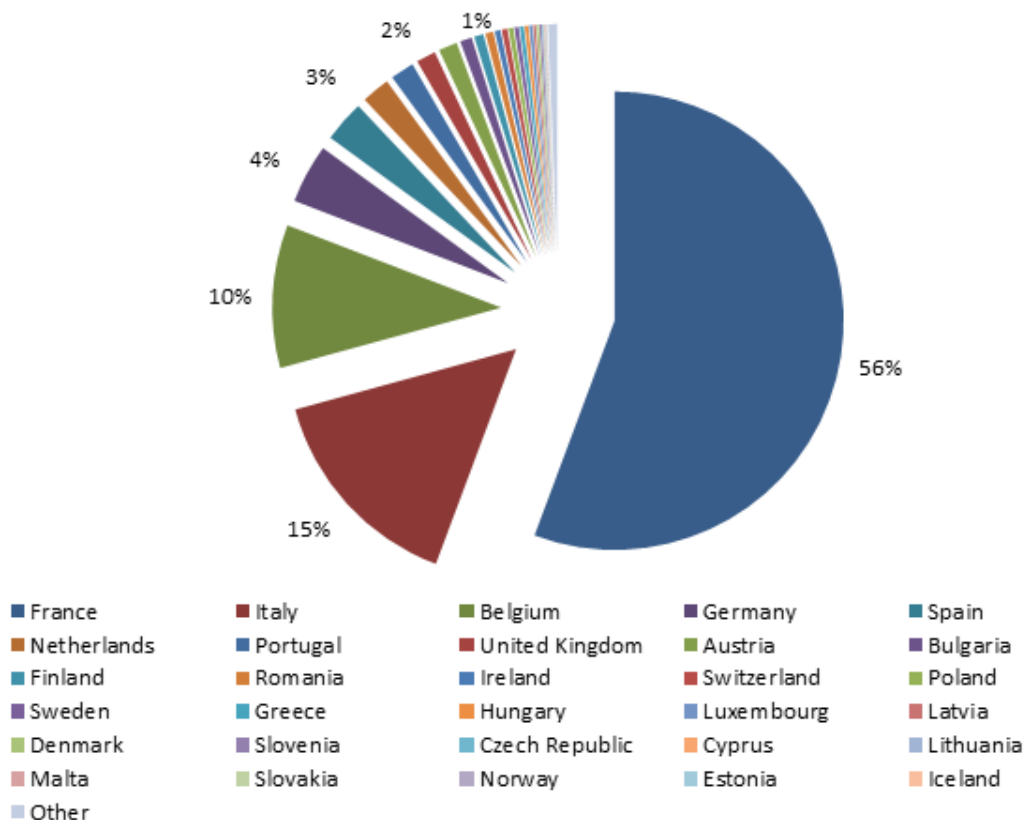
⁸ http://ec.europa.eu/agriculture/organic/eu-policy/legislation_en

⁹ The persons who replied on behalf of a consumer organisation are considered as consumers, while the ones who replied on personal behalf are considered as citizens.

The respondents were asked to indicate drives for purchasing and consuming organic products. Over 80% of all questioned citizens claimed that the most important rationales behind organic products consumption were concerns about the environment (83%) as well as purity of these products with regard to GMOs (81%) and pesticide and other chemical substances residues. A considerable number of citizens' respondents also emphasized that they purchased organic products because of belief in and support for seasonal and local products (78%) as well as strong conviction that organic farming system is more sustainable than conventional (74%). Approximately 63% of the respondents considered organic foodstuffs as healthier than their conventional counterparts. About half of them underlined that they are motivated to buy organic products because organic production respect animal welfare. Besides, important reasons that encouraged almost half of the questioned consumers to consume organic products are beliefs that these goods are of higher quality (47%) and better taste (43%). In addition, 10% of private consumers, who responded to the questionnaire, consume organic products for other beliefs than those stated above.

From a geographical point of view, France was overrepresented¹⁰, with 56% of the replies, followed by Italy (15%) and Belgium (10%) (see graph 1).

Figure 1: Percentage share of replies to the public consultations' questionnaire by country



A report presenting a detailed analysis of the results as well as an executive summary can be consulted on the Commission web-site¹¹.

¹⁰ To check whether some particular sub-classes (by country, capacity, attitude, orientation etc.) could introduce bias on average results from the sample, analyses based on groups were carried out: by selecting most relevant classes no distortive effect was proved.

Annex 2 to this report presents a synthesis of the results of the consultations carried out for the review.

¹¹ http://ec.europa.eu/agriculture/consultations/organic/contributions_en.htm.

Scrutiny by the Commission IAB

The IAB assessed a draft version of the present impact assessment and issued a positive opinion on 20 December 2013. The report was amended in line with the recommendations from the IAB, as follows:

(1) Further improve the problem definition: An effort was made to demonstrate the relative importance and impact and demand for organic products in the EU of the problem drivers presented in the report, despite the lack of data. The problems are presented in a more neutral manner and it is clarified that the development of organic production in the EU is lower than what can be expected from market developments.

(2) Better describe the options: for each envisaged options, addressed problem drivers are indicated. It is clarified that the impact assessment covers measures envisaged under the basic Act and its implementing measures. The envisaged changes to the objectives and principles of organic farming are explained. The report better explains the link between the envisaged export certificate and export issues, and how measuring of environmental performance when processors and traders deal with both organic and conventional products, assessing the risk of non compliance of retailers, setting transitional periods for organic inputs and defining transitional measures for control bodies will work in practice.

(3) Further develop the assessment and comparison of impacts:the report further discuss the possibility that the expected increase in consumer confidence would not sufficiently compensate potentially higher prices under the preferred option. Greater efforts have been made to indicate which product categories, MS and third countries are likely to be most impacted.

(4) Better present stakeholders views: the analysis is corroborated with the views of key stakeholders groups, where available. It presents the overall summary of both public and targeted consultations in Annex 2.

Procedure and presentation: the report has been substantially shortened by streamlining the problem definition, shortening the discussion on general objectives, avoiding duplication in assessing the effectiveness of options and re-focussing the monitoring and evaluation arrangements on specific rather than operational objectives.

2. POLICY CONTEXT, PROBLEM DEFINITION, AND SUBSIDIARITY

2.1. CAP and CFP post 2013

The new CAP adopted in 2013, provides for the overall framework for the development of agriculture in the EU for the period 2014-2020. The **overarching objective for the CAP post 2013** was the sustainable competitiveness to achieve an economically viable food production sector, in tandem with sustainable management of the EU's natural land-based resources .An emblematic measure of the new CAP is the introduction of a strong greening component (30%) in the direct payments received by farmers, which can be received if they go beyond the basic requirements and deliver environmental and climate benefits. Given the recognised environmental benefits of the organic farming systems, **organic farms will benefit from this "greening" payment.** For details on the instruments supporting the organic farming policy see Annex 3.

The **RD measures will more widely address organic farming** during the programming period 2014-2020. Besides the new measure for supporting organic farming through compensating for additional costs or income foregone resulting from organic conversion or management, other relevant measures will be proposed, such as the development of **innovative products**, processes, practices, technologies and **cooperation** approaches among actors of the food chain.

It is necessary to ensure that **the legislation on organic farming is still consistent with the new CAP**.

CFP post 2013

The revised CFP for the next ten years was adopted in 2013¹². Organic aquaculture is viewed as a promising sector, where further growth is anticipated in the coming years for various species of fish, shellfish and seaweed. As the EU implementing rules have only applied to aquaculture since 1 July 2010, organic aquaculture is still a young sector compared to organic farming.

2.2. Legislation on organic farming

The first EU legislation on organic farming was adopted in 1991. Council Regulation (EEC) No 2092/91 provided a legal definition of organic farming through production rules, defined control and labelling requirements and rules for importing organic products. This provided a basis to protect consumers and organic farmers against false and misleading organic claims.

The legislation was substantially revised with the adoption of Council Regulation No (EC) 834/2007 in June 2007. which notably:

- defined organic farming more accurately by describing its **objectives and principles**,
- further **harmonised** organic production rules within the EU, by putting an end to national rules for animal products,
- introduced the **possibility of exceptions to the rules** under the responsibility of MS, with the objective to limit them to the strict necessary and for a limited period of time,
- linked the organic control system to the OFFC provided in Regulation (EC) No 882/2004¹³ and made obligatory the **accreditation** of private CBs,
- **restructured the import regime**: in addition to the recognition of third countries for the purpose of equivalence, the EU is now able to recognise directly CBs active in third countries for the purpose of equivalence or compliance. The system of individual authorisations granted by MS consignment by consignment is being phased out (till 2014).

¹² Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC, (OJ L 354, 28.12.2013, p. 22–61)

¹³ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p. 1–141)

While most of the provisions were simply transferred from Council Regulation (EC) No 2092/91, the new elements have been implemented from 2009 onwards. However, the new import system through recognised CBs for the purpose of equivalence¹⁴ applied from July 2012.

When adopting Council Regulation (EC) No 834/2007, **the Council earmarked a series of issues**, regarding, in particular, the scope of the legislation, the prohibition of the use of GMOs and the functioning of the internal market and control system, on which the Commission was required to submit a report to the European Parliament and the Council, after having reviewed the experience gained from the application of Regulation 834/2007.

The Commission adopted the report¹⁵ in May 2012. It was a factual report which included in particular the results of a MS-survey on organic food prepared by caterers. In order to be better prepared for the review, the Commission ordered **an external evaluation** in September 2012, parts of which have been used for this impact assessment.

The Council adopted conclusions on the report at its meeting on Agriculture and Fisheries of 13-14 May 2013¹⁶ on the basis of the Commission report. Among others, it called to develop the organic farming sector **at an ambitious level** by reviewing the current legal framework, with a view to improving its usability **while providing for a period of stability and certainty**, and aiming at further clarification and simplification and addressing the current outstanding issues requiring further development.

2.3. Focus on the control system

The **ECA audited the effectiveness of the control system** governing the production, processing, distribution and imports of organic products in 2010 and 2011. The results, published in the ECA Special Report No 9/2012¹⁷, show a number of **weaknesses** and include recommendations for improvement. Annex 9 provides a detailed description of the control system and of the most relevant findings of the ECA.

The Commission addressed the ECA' more pressing recommendations with the adoption of Commission Regulation (EU) No 392/2013¹⁸ amending the implementing rules on the organic control system **in April 2013**. The Regulation, applicable as from 1 January 2014, enhances the exchange of information along the chain, harmonises and strengthens the risk-based approach and calls on MS to increase supervision of CBs, to develop a catalogue of sanctions and to improve the quality of their reporting to the Commission on the control activities carried out.

¹⁴ Commission Implementing Regulation 1267/2011 of 6 December 2011 amending Regulation (EC) No 1235/2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries

¹⁵ COM (2012) 212 final of 11 May 2012 Report from the Commission to the European Parliament and to the Council on the application of Council regulation (EC) No 834/2007 on organic production and labelling of organic products

¹⁶ 8906/13 AGRILEG 56 – Organic Farming: Application of the regulatory framework and development of the sector

¹⁷ Special Report of the ECA no 9/2012 on "The audit of the control system governing the production, processing, distribution and imports of organic products" published on 26 June 2012

¹⁸ Commission Implementing Regulation (EU) No 392/2013 amending Regulation (EC) No 889/2008 as regards the control system for organic production (OJ L 118, 30.4.2013, p. 5-14)

In May 2013, the Commission adopted a **proposal¹⁹ to review the OFFC Regulation**. The proposal aims at improving the existing situation in respect of overlaps, gaps and grey areas due to the presence of control requirements in different pieces of legislation. It explicitly refers to organic as part of the scope of official controls, thereby removing a number of previous uncertainties. Coordination will be needed when defining specific or additional measures for organic controls, such as on control responsibilities and tasks, minimum control frequency, measures for non-compliance, specific reporting obligations and derogations as appropriate.

2.4. Consistency with other policies

The review will have to take into account other policies such as **quality schemes** developed under the CAP²⁰, (with discussions on new optional quality terms), the ongoing review of the **promotion and information policy for EU agricultural products** (for more details see Annex 4) and other initiatives such as "**Unlocking the Single Market for Green Products**" and the "**Sustainable Food initiative**". The present review is also an opportunity to progress on the debate about the possible **extension of the Ecolabel²¹²² to the food and feed sector**, which has been previously envisaged. A study²³ published in October 2011 evaluated in particular the option of limiting the scope of the EU Ecolabel for food, feed and drink products to organically certified products only and underlined the confusion that could result for the consumer from such an extension.

Consistency with the EU Health and Consumer policy and in particular with the horizontal rules on food and feed safety and labelling is essential to ensure the coherence of the EU approach in the food and feed sector thus offering consumers the same public health guarantees throughout the EU, including for imported products. In this area, the Commission is also working on measures on animal cloning for food production in the EU. The legislation on organic production will need adaptations in order to clarify the exclusion of such techniques in organic production, taking into account the organic farming principles.

¹⁹ COM(2013) 265 final of 6.5.2013: Proposal for a Regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, [...]2013 [Office of Publications, please insert number of Regulation laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material], and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation)

²⁰ Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs. OJ L 343 of 14.12.2012, p. 1

²¹ Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel - OJ L 27, 30.1.2010, p. 1.

²² Article 36 of Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products requires the Commission to submit, by 1 January 2015, a feasibility report on options for an Ecolabel scheme for fisheries and aquaculture products.

²³ EU Ecolabel for food and feed products – feasibility study (ENV.C.1/ETU/2010/0025) – Oakdene Hollins Research and Consulting

On the international side, consistency with the international agreements and with the EU Development Policy needs to be maintained.

2.5. Problem definition

2.5.1. General problem

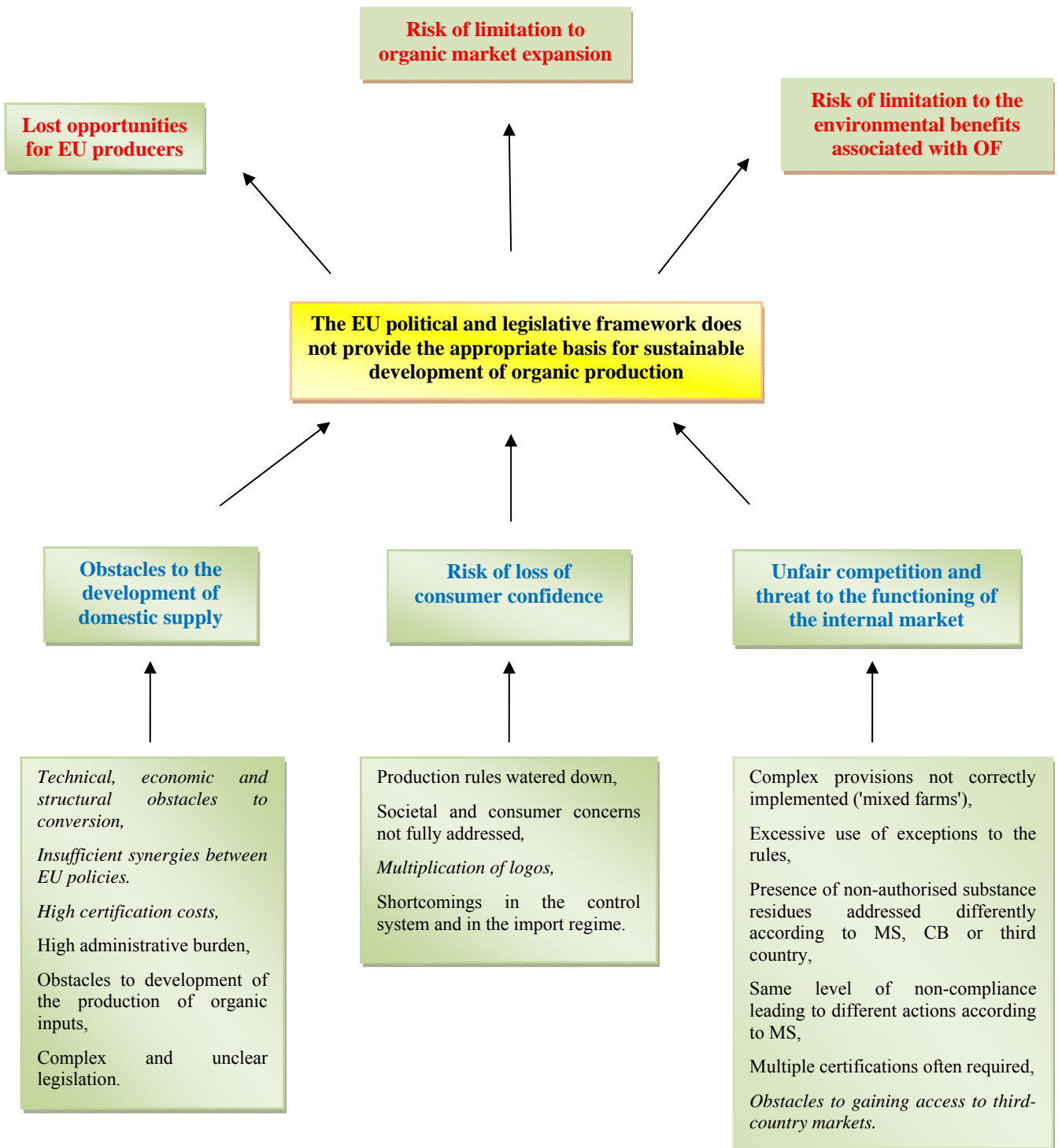
The overall objective of the current EU political and legislative framework, which is the **sustainable development of organic production**, is not met. Although the organic farming sector develops in the EU, **the progression is not in line with market developments**, while studies indicate organic farms tend to require more labour and to achieve higher margins per unit of production than conventional ones²⁴. **Therefore the economic growth and the delivered level of employment in the EU organic sector are below what could be expected from the market development, which means lost opportunities for EU producers.**

There is also a risk of limitation to the organic market expansion. The organic market has built on consumer confidence. Research results show that consumer confidence is higher with strict production rules and reliable control procedures. But with the current legislation, the organic production rules are being watered down notably by an excessive use of exceptions. In addition, deficiencies in the control system and in the import regime lead to negative reports in the media because of fraud cases. **Therefore there is a risk of erosion of consumer confidence which entails a risk of limitation to the organic market expansion.**

There is evidence that organic farming practices, when compared to conventional agriculture, have positive effects on the environment, notably on biodiversity, soil and water. This is further analysed in Annex 13. But **the current legislative framework hinders these positive effects** by limiting the surfaces managed according to the organic farming principles in the EU because of lost opportunities for EU organic producers and by watering down the organic production rules. It results in a **risk of limitation to the environmental benefits associated with organic farming.**

²⁴ Organic versus conventional farming, which performs better financially? An overview of organic field crop and milk production in selected MS. Farm Economics Briefs, No 4, November 2013, European Commission, DG Agriculture and Rural Development. http://ec.europa.eu/agriculture/rca/publications_en.cfm#BR2011

2.5.2. Problem tree



Non-regulatory drivers are in italics.

2.5.3. *Specific problems and problem drivers*

This part analyses first the development of demand and supply for organic products in the EU and then the specific problems and the problem drivers.

2.1.1.1. Supply and demand for organic products in the EU

Demand side: organic market outlook

In recent years the organic market in the EU and worldwide has been characterized by an unprecedented development.

The global market for organic food has expanded fourfold since 1999. Its value was estimated at 63 billion US dollars in 2011²⁵. Although growth has slowed since the financial crisis started in 2008, sales have continued to increase. Demand for organic products is concentrated in two regions: North America and Europe represent around 45% each of global revenues.

In the EU, the total value of the organic market was estimated at **around 20 billion Euro in 2011**²⁶. This figure represents approximately 2% of the turn-over of the EU food and drink industry in the EU which is estimated at 1,017 billion Euro for 2011²⁷, a share that has doubled since 2004. Since 2008, the growth is around 7-8% per year and was estimated at **9% in 2011**. Market growth rates are expected to recover as the European economy strengthens. Some analysts project the European organic market to continue to increase by around 7% per year, with revenues reaching 30.5 billion Euro in 2016²⁸.

The by far largest organic market in the EU was Germany with 6.6 billion Euro in 2011. France held the second place with 3.8 billion Euro. This market showed one of the most dynamic growth rates in the past couple of years. The UK organic market is estimated at 1.9 billion Euro, while in Italy it is 1.7 billion Euro. The organic sector is described in Annex 1, with some more indications on the consumption of organic products.

The organic market is developing not only from a quantitative point of view, but also from a qualitative point of view. The **range of organic products** offered to consumers is widening with in particular more and more varieties of organic processed products available. The **distribution** has evolved. Retail, supermarkets and internet traders are now significant players together with direct sales, local markets and specialised shops.

The **economic crisis** has had two types of impacts on the organic market. In some MS, it has caused a reduction in consumption because organic products are more expensive than conventional food. On the other hand, the crisis has triggered some consumers to look for more responsible and sustainable products leading to an increase in organic sales²⁹. Overall, the market has continued to grow at a healthy pace.

²⁵ Source: Organic Monitor

²⁶ The World of Organic Agriculture: Statistics and Emerging Trends 2013 - FiBL and IFOAM

²⁷ FoodDrink Europe, Data and Trends of the European Food and Drink Industry 2012

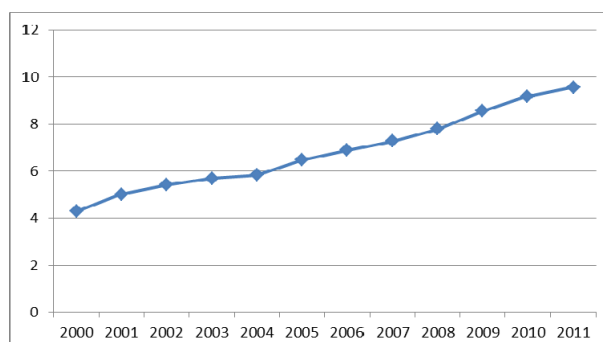
²⁸ Estimates of the size of the organic market are from private sources

²⁹ IFOAM – FRESHFEL, BEUC September hearing

Supply side

Available data³⁰ shows a rapid development of the organic farming sector in the EU during the last decade:

Graph 2.5.2.2: Evolution of the area under organic cultivation in the EU (million ha) between 2000 and 2011



Source: Eurostat annual survey

A thorough analysis of the adequation of the supply to the demand in the EU cannot be provided, since data on organic production is incomplete.

Incomplete data on organic production

The EU organic production legislation currently defines identification and collection of statistical data within the context of the EU Statistical Programme. On this basis, it provides for the collection by MS of data related to: surfaces (in conversion and fully converted), operators (by type of activity), livestock (organic animals and products of animal origin), crop production and processing (operators and value/volume of production by type of economic activity). According to Eurostat analysis (Task Force "Organic farming statistics" 7-8 March 2011), data are substantially incomplete with regard to specific crop production, products of animal origin and processed products.

The land area converted to organic farming in the EU is growing at a slower pace than the organic market. Starting in 1993, the share of UAA devoted to organic farming has grown from 0.6% in the EU-15 to 5.4% in the EU-27 in 2011 where it covered 9.6 million ha of land. The **organic area has approximately doubled** in the decade 2000 - 2010, with varying situations according to MS. This has to be put in perspective with a **four-fold growth of the global organic market** between 1999 and 2011, during almost the same period.

In the organic sector, the obligation to undergo a conversion period of usually up to two years allows only a medium-term response of the supply-side to changes in the demand side. This leads to a certain degree of imbalance between domestic supply and demand in the organic market. However, this is not sufficient to explain the gap between supply and demand in the EU.

³⁰ See in particular "Facts and figures on organic agriculture in the European Union" – Commission report, November 2013. http://ec.europa.eu/agriculture/markets-and-prices/more-reports/pdf/organic-2013_en.pdf

There is evidence of lost opportunities for EU producers, notably the fact that the organic production in the EU does not cover the demand:

- stakeholders³¹ have reported that the demand is far from being covered by the production in the EU, notably for **fruit and vegetables and crop products, including protein-rich crops for feed,**
- an **inadequate level of production of organic inputs, such as seeds and young animals,** is attested by a wide use by MS CA of the possibility to authorise the use of conventional inputs if they are not available on the market in their organic form,
- the external evaluation has quoted one study reporting an oversupply in certain sectors of the EU organic food industry since the demand is not keeping pace with supply. It has proved to have occurred in the organic milk sector only, according to the information received by DG AGRI during the stakeholder consultation.

The difference between EU production and demand is covered by growing imports.

Because of the lack of data on sales and trade, this cannot be corroborated by a thorough statistical analysis, but it is confirmed by:

- a comprehensive study³² on imports of organic products into Germany showing that the share of imported organic products that could also be produced in the country varies from 2 to 95 %;
- the share of organic imported products on the French organic market estimated at 25 % in 2013 by the 'Agence Bio'.

Both sources do not differentiate imports from third countries and products bought in other MS.

More specifically, the increase in imports from third countries is demonstrated by:

- **data on exports from third countries:** for instance from India. The EU is the main destination for organic products exported from India (47% in volume, 58% in value in 2012). In the marketing year 2010-11, India³³ exported a total volume of almost 70.000 tonnes, including about 33.000 tonnes to the EU. This compares with a total volume of less than 4.200 tonnes exported by India in 2002-2003. Exports from India into the EU have regularly increased during the last decade;

³¹ UNADIS (Union Professionnelle Belge des Détaillants Spécialisés en produits Bio et compléments alimentaires) reported that demand is higher than supplies. Freshfel (European Fresh Produce Association) noted that the contrast between availability of organic production and drive towards green public procurement - discrepancies between political willingness and operational possibilities.

³² Analyse der Entwicklung des ausländischen Angebots bei Bioprodukten mit Relevanz für den deutschen Biomarkt – BÖLN

³³ Source: APEDA - http://www.apeda.gov.in/apedawebsite/organic/Organic_Products.htm

- an analysis by a private consulting³⁴, according to which "*large volumes of organic **beans, seeds, grains and ingredients such as cocoa and vanilla** are imported into Europe*"; good market opportunities are mentioned in the **meat sector**, and high growth in the **organic seafood market** more import reliant; "*many products, such as organic tea and coffee are imported. Imports are also important for **organic juices, wine and some soft drinks***";
- the USDA Foreign Agricultural Service³⁵, which published in February 2013 an analysis of the export opportunities for U.S. organic products in the EU market. The potential market for U.S. organics on the EU market is estimated at almost USD 50 million with opportunities to be found in vegetables, fresh fruit, dried fruit and nuts, specialty grains and processed products.

2.1.1.2. Obstacles to the development of domestic supplies

Obstacles to the development of organic farming in the EU

(a) Technical, economic and structural obstacles to conversion

The conversion of a holding to organic farming is a complex process which involves fundamental changes.

Obstacles to conversion can be:

- **Technical issues:** for instance, farmers have to better **integrate natural systems and cycles in their production method** and to use them in order to improve soil fertility and to protect plants against pests and diseases. Appropriate technical advice is not always available.
- **Structural aspects:** there is a general trend towards intensification and specialisation of agriculture, while diversification is crucial in organic farming. In particular, the number of mixed farms with crop and livestock production is declining in the EU.
- **Economic aspects:** because they can expect lower and more irregular yields with organic farming, farmers can be reluctant to convert to organic farming. In addition, the land has to undergo a **conversion period** (2 or 3 years depending on the crops) during which the products cannot be sold as organic.

The organic sector needs on specific technical and financial support could notably be addressed in RD programmes under the new programming period 2014- 2020. This is a non-regulatory driver which could be addressed in an action plan.

Research and innovation policies could adress technical issues and, to a certain extent, structural aspects. It has to be noted that the answer from research and innovation policies to the organic sector development needs has been partial. This could be due to an insufficient uptake or dissemination of research results (organic, low input agriculture

³⁴ Organic Monitor, the Global Market for Organic Food and Drink: Business Opportunities and Future Outlook (3rd Edition)

³⁵ Export opportunities for U.S. organics in the EU market - Gain Report Number: NL3003- 2/11/2013 The Hague

and conventional agriculture), and by a weak identification of the sector's development needs³⁶.

This is a non-regulatory driver which could be addressed in an action plan, through existing instruments under the EIP and Horizon 2020 research policy. Annex 5 provides background information on the possibilities offered by these instruments.

The EGTOP has a valuable contribution for the evaluation of new substances and techniques that can be considered compatible with the objectives and principles of organic farming; however this system faces challenges, as shown in details in Annex 7. This is a regulatory driver that can be addressed with this initiative.

Insufficient conversion to organic farming affects negatively the supply of organic products in the EU. An improved legislative framework could probably contribute to ease conversions, but it would be useful to understand what makes the organic sector attractive or not for producers. A specific study could be proposed in an action plan.

(b) Insufficient synergies between EU policies

Organic production delivers also in the new policy framework and EU 2020 strategy: protection of biodiversity and soil, animal welfare, development of rural areas and local food chains, multifunctional agriculture, long term food security. Complexity of EU instruments requires further efforts in order to ensure coherence and synergies between EU policies.

This is a non-regulatory driver which could be addressed in an action plan.

(c) High certification costs

According to the CERTCOST³⁷ project the inspection fee is the most relevant monetary expenditure for organic operators with respect to the certification costs. The median of the inspection fee amounts to 500 Euro per farm, ranging from 318 Euro in the Czech Republic to 647 Euro in the United Kingdom. The calculation of the fee can be quite sophisticated, including a basic fee and a variable fee according to the area, the type of crop, the number and type of animals. Concrete examples are provided in Annex 10.

This level of inspection and certification cost is in some cases not proportionate with the economic dimension of small agricultural holdings. According to Eurostat data, **73% of EU agricultural holdings have an output lower than 8 000 euros.**

In other respects, the current control rules that require annual inspection of all operators (articles 27(3) and 28 of Council Regulation (EC) No 834/2007) do not allow group certification that is accepted for the import of organic products produced by small producers in Third Countries as a measure of equivalent control effectiveness. Group certification is defined by IFOAM as "the certification of an organized group of small-scale producers with similar farming and production systems. The requirements for group certification apply only to such groups when the certification applies to the group as a

³⁶ Since 2000, the EU has funded 49 research projects on organic farming and low input agriculture.

³⁷ The full set of reports from the CERTCOST projects is available at www.certcost.org

whole and when special inspection arrangements have been applied". Further information and review of existing group certification schemes is provided in Annex 15.

This is a non-regulatory driver; however, it can be addressed through some legislative provisions which impact the efficiency of the control system.

(d) A high level of administrative burden for the organic operators

The most burdensome obligations are to keep documentary evidence of the need to use (authorised) plant protection products and fertilisers, the control arrangements and undertaking necessary to enter the organic scheme, to keep specific register of livestock records and to keep documentary evidence in relation to coexistence of organic and conventional production (see paragraph 5.5).

The obligation of detailed record keeping has been mentioned as particularly difficult in the case of small organic holdings. This issue, combined with disproportionate inspection fees (see below), leads to small agricultural holdings to be under-represented in the organic sector. **While 69% of all agricultural holdings have less than 5 ha, only 18,7% of organic holdings have less than 5 ha.**

The administrative burden is a regulatory driver that can be addressed with this initiative, by improving the legislation.

(e) Obstacles to the development of the production of 'organic inputs'

Some exceptions can be granted by MS CA where they are necessary to ensure access to inputs which are not available in organic form on the market, notably young animals, seeds or protein feed. Their existence has had the unintended consequence to **limit the development of the production of the inputs in their organic form.**

The external evaluation has demonstrated this issue:

- In the case of the exception allowing the use of non-organic pullets: in Denmark, the use of conventional young poultry has been prohibited for many years which fostered the development of a market for young organic poultry. As a consequence, the supply in young organic poultry is adequate. But in other countries which grant easily exceptions to use non-organic pullets, the supply of non-organic pullets is not adequate. In countries studied by the external evaluation, authorities and/or operators said that a 100 % organic supply would be possible if there were no market perturbation like the possibility provided by the exceptional rule. Experts from Austria, Denmark, France and the Netherlands reported that there was no need for exceptional rules for young poultry, while experts from the Czech Republic, Estonia, Italy, Poland and Slovenia stressed that there is no or only a limited supply of organic young poultry in their countries. To postpone the ending date hampers the development of supplies and is considered not fair for sectors that have started to adapt to the end of the exception.
- In the case of the use of non-organic seeds, the analysis of specific data and of the information on the use of the seed management database has shown an extensive and increasing use of the exceptional rule system at EU level. Providing access to the conventional seed market through the exceptional rule plays against the development of the organic seed sector. Data provided in 8 MS annual reports for 3 crops (wheat, maize and potatoes) show a variable share of organic land area

sown with non-treated conventional seeds. The highest rate of use of non-organic seeds, around 100%, was found in Italy. A general use of non-organic seeds was also observed in Denmark and Estonia, because of general exceptions, leading farmers to favour cheaper non-organic seeds, even when adequate organic supply is available for specific varieties. In contrast, high levels of organic supply for soft wheat seeds have been achieved in Austria and the UK. For maize, the share of organic areas cultivated from organic seed is close to 100 % in the Netherlands, Austria and Spain. Organic supply for seed potatoes is quite high in Austria, Bulgaria, Denmark, the Netherlands and the United Kingdom, with non-organic seeds used on less than 30% of the organic areas. The European Consortium for Organic Plant Breeding reported in its 7th workshop in October 2013 that the important development of the organic market was not accompanied by a corresponding development in the use of organic seeds. **The consortium would strongly support the end of exceptions to the rule.**

The issue of organic inputs is crucial. For instance, in the case of seeds, growing organic seeds is better for the environment. In addition, organic seeds are better suited for organic growing conditions. Therefore, the development of organic seeds is a condition for the sustainable development of organic farming. The issue was summarised by the representative of Belgium in the Council: "*... Organic agriculture needs new varieties of plants in order to further develop. The use of organic propagating material is a fundamental part of the closed production cycles, which are promoted as a feature of organic agriculture. The current regulations (...) provide mandatory use of organic propagating material but on the other hand allows many derogations for the use of conventional propagating material. Whereas research has shown that plant varieties specifically selected in and for organic agriculture have essential importance in the development of the organic crop production, it is not very attractive for the seed producers to make investments in this small scale market. Many companies prefer selling conventional not treated (...) varieties, despite the fact that those varieties have not been selected for organic agriculture.*"

The issue of exceptions is a regulatory driver that can be addressed with this initiative, by amending the legislation.

(f) *Complex and unclear legislation on organic production*

Some provisions of the EU legislation are complex or unclear, which may discourage producers who wish to join or to develop their activities in the organic sector.

One example is the scope of Council Regulation No 834/2007, which does not refer to a precise list of agricultural and processed products. MS CA and companies consult regularly the Commission to clarify whether or not certain products are included. As a result, producers might prefer not starting producing organic production if they are not certain to be able to sell their products as organic.

This is a regulatory driver which can be addressed with this initiative.

2.1.1.3. Risk of loss of consumer confidence

This part addresses the objective of ensuring consumer confidence and protecting consumer interests as stated in Article 1 of Council Regulation (EC) No 834/2007.

The organic market has built on consumer confidence. Research results which show that consumer confidence is higher with strict production rules and control procedures are summarised in part 4 of Annex 1.

Why do consumers choose organic products?

According to BEUC, consumers choose organic products because they perceive them as healthy and environmentally-friendly. In addition, they meet other concerns such as animal welfare and use of additives.

The major barriers for consumers to choose organic products would be their perceived too high price and their insufficient accessibility. Consumers wish organic products to be available in supermarkets, including discounts. They also appreciate box schemes, like boxes of organic fruit and vegetables delivered at home.

Consumer expectations depend on their knowledge, but they usually expect more than what is required under Regulation (EC) No 834/2007. In particular, they want residue-free products.

The risk of loss of consumer confidence is due to conflicts between consumer expectations and reality. However, consumer knowledge on quality schemes is usually low.

(a) Production rules watered down

The results of the public consultation show that **the majority of citizens (62%) and stakeholders representing consumers (63%) did not approve the possibility for farmers and other operators to be exempted from production rules and still have their produce certified organic.**

In addition, the largest part of respondents (77%) agreed that **exemptions from production rules granted to farmers and other operators should always be limited in time.**

-

(b) Societal and consumer concerns not fully addressed

The sustainable use of energy and the management of environmental impacts are increasing concerns which are not fully reflected in the EU legislation. While organic farmers and operators producing seaweed and aquaculture products have to respect strict principles benefiting the environment, there is no obligation for other organic operators regarding environmental impacts related to food and feed processing, packaging, transport and distribution of organic products, despite the expectations of consumers.

Concerns regarding the need to consider the whole lifecycle of food and feed products could be addressed by applying the **EU Ecolabel to food and feed products**, including organic ones. In this respect, the recently revised Ecolabel Regulation (66/2010)³⁸ required the Commission to carry out a study on the feasibility of developing Ecolabel

38 Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel, OJ L 27 of 30.1.2010, p.1

criteria for food and feed products, with a special attention to organic products. This study³⁹, completed in October 2011, underlined in particular the confusion that could result for the consumer between the Ecolabel and the organic logo. As an alternative to placing the Ecolabel on organic products, it was suggested "to amend the Organic certification [...] to cover the full life cycle of food products, including the processing and packaging and [called] on the European Commission to give due consideration to this option, to improve the performance of the existing Organic Regulation."

During the hearings, BEUC declared that consumers would not support the introduction of Ecolabel for food and drink, because it would entail confusion. In the Council, some MS mentioned "incompatibilities between the EU regulatory framework on organic farming and Regulation (EC) No 66/2010 (...) on Eco-Label" and even stated that "it was not appropriate to extend (...) its scope to food and drinks, although it has not been applied yet".

IFOAM EU, supported by other stakeholders, suggested to have operators downstream of primary production, i.e processors and traders, manage their environmental performance via an EMS (e.g. ISO 14001 or EMAS). An EMS is a tool that provides organisations with a method to systematically manage and improve the environmental impacts of their production processes. It helps organisations to achieve their environmental obligations and performance goals. In addition to EMAS and EN ISO 14001, non-formal EMS exist in the EU. Many of them have been adopted by both private and public organisations. These EMS are mostly designed to cover organisations with a specific size (e.g. SMEs) and organisations coming from specific areas or specific sectors of activities.

In the public consultation, a majority (61%) was in favour of an obligation for producers and traders to implement an EMS to improve their environmental performance.

Such societal concerns are non-regulatory drivers that can be addressed through regulatory measures.

Animal welfare is an increasing societal concern, which was raised in the public consultation. 34% of respondents underlined that organic farming producers should be obliged to comply with specific rules for animal welfare. In addition, around one quarter of respondents considered animal welfare standards in organic farming should systematically be higher than in conventional farming. Only 9% declared that current rules for animal welfare in organic farming are sufficient.

The organisations Eurogroup for Animals and Compassion in World Farming have been heard in the hearings and have transmitted detailed proposals to improve animal welfare in organic farming, presented in detail in Annex 14. Organisations have underlined that current practices are not always consistent with organic principles, for instance the mutilations authorised as "specific operations essential to certain types of production and for the sake of security for animals and human beings, permitted under restricted conditions", while the general rule provides that "mutilations which lead to stress, harm, disease or the suffering of animals should be banned".

The present initiative is an opportunity to address this regulatory issue, notably to re-focus the animal welfare provisions on the organic farming principles.

39 http://ec.europa.eu/environment/ecolabel/documents/Ecolabel_for_food_final_report.pdf

The issue of presence of non-authorised substance residues in organic products is crucial for consumers. In the public consultation, 85% of the citizens declared they buy organic products because they want to avoid food containing pesticide residues. 62% of them would support the testing of all organic products for pesticide residues, even it would increase costs and make them dearer for consumers. Three quarters of the respondents agree that no pesticide should be allowed in organic farming; only 11% support the authorisation of some pesticides under very strict procedures. These high expectations sometimes conflict with reality. The issue is further developed in paragraph 2.5.3.4 (d).

(c) Multiplication of logos

The multiplication of logos is one of the main drivers for consumer confusion and risk of being misled. The EU organic policy provides a set of rules to be applied all over the EU and the use of the EU logo guarantees that they are respected. The use of other "organic" logos can be seen as a sign that the EU rules/logo does not inspire sufficient confidence to consumers. There are many private organic logos and other scheme logos on the market. A recent study mentioned a total of 901 quality schemes in the EU, among which 234 were related to organic farming⁴⁰.

In 2010, the Commission published best practice guidelines for voluntary certification schemes⁴¹, one of the purposes of which was to avoid consumer confusion and increase the transparency and clarity of the schemes requirements. However, according to the above-mentioned study, the awareness of these guidelines among operators is currently insufficient. The study also highlighted that the public usually knows a limited number of schemes and stated that some confusion exists about logos and symbols used.

The use of the EU organic farming logo became obligatory on the packaging of EU organic products in 2010. According to Eurobarometer⁴², in July 2012 on average over all 27 EU MS, 24 % of the respondents indicated to know the EU organic logo on organic farming. This share was higher in Denmark (39 %), France (38 %), Luxembourg (37 %) and Austria (36 %). The lowest share of respondents knowing the EU logo was found in Romania (10 %), Poland (12 %), Bulgaria (13 %) and Spain (14 %).

However, a comparative analysis of the EU organic logo and other organic and non-organic food logos conducted for the external evaluation in six case study countries (Estonia, France, Germany, Italy, Poland and the United Kingdom) has shown that, in all countries other organic logos exist in the market place, which were better known than the EU organic logo.

The issue of logos is both a regulatory and non-regulatory driver. It can be addressed indirectly with this review by reinforcing the EU organic scheme in order to avoid the development of new schemes and logos.

⁴⁰ **Consumer market study on the functioning of voluntary food labelling scheme for consumers in the EU.** Draft final report by Ipsos and London Economics Consortium, September 2013

⁴¹ Commission Communication — EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs. EU OJ 2010/C 341/04, 16.12.2010, p. 5.

⁴² **Eurobarometer report n° 389** (What Europeans think of food security, food quality and the relation between agriculture & the countryside - July 2012)

(d) Shortcomings in the control system and in the import regime

The EU organic control system covers the activities performed by operators at all stages of the production, preparation and distribution chain: from farm to fork.

Any operator who produces, prepares, stores, imports or places on the market organic products shall notify his activity to the MS CA and shall submit his undertaking to the control system (article 28(1) of Regulation No 834/2007).

Organic products are "credence goods": their organic attributes or nature results from the production process and cannot be reliably assessed by consumers, neither before nor after purchase⁴³. Consumers willing to buy organic products therefore have to rely on the organic labelling, enforced by the control system.

Fraud cases in the media

Recent fraud cases in the EU organic sector have been revealed which, for their scope and duration, seem linked to systemic control weaknesses rather than isolated instances. They have had very wide press coverage, beyond the organic specialised sector, and led to a wave of concerns and doubts on whether the organic system can really be trusted. For instance, in **December 2011** a large fraud case concerning organic products, "Gatto con gli stivali", was revealed by the Italian tax investigation authorities. It has been used as a case study by the external evaluation.

A non-exhaustive selection of articles from the following newspapers: Politika (Warsaw), die Welt (Berlin) and die Tageszeitung (Berlin), translated and available on-line by PressEurop, is shown in Annex 9.

Until now, the fraud cases do not seem to have significantly harmed the confidence of citizens. Nearly three quarters of the respondents to the public consultation (71%) acknowledged that they have full confidence in organic products. Nonetheless, almost one out of five of the interviewees, i.e. 18% did not trust the organic integrity of products. In addition, 11% of respondents abstained from answering to this question.

More than half (58%) of the citizens required improvement of the European control system for organic products even if this entails an increase in prices. 22% repliers to the questionnaire stated that improvements are not needed, especially if these lead to a rise of organic products' prices. 20% of the respondents did not express any opinion on this.

What remains to be done to improve the control system?

Some shortcomings signalled by the ECA have been only partly addressed, notably the followings:

ECA Special Report No 9, 2012

"MS CA 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 fulfill the regulatory requirements regarding traceability, in this regard, the Commission should clarify the roles and responsibilities of the different actors. "

DECISIONS IN ORGANIC FOOD PRODUCT MARKETS

The control system and the import regime have been subject to specific questions as part of the **external evaluation**. However, the external evaluation scope was limited to the adequacy of the legal provisions, defined as being sufficient in relation to the intervention's objectives, while the impact assessment has to consider also their effectiveness and efficiency in line with the principle of sound financial management. This explains why 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.

The main issues remaining to be addressed after the initiatives described in paragraph 2.3 are the following:

- a) Incomplete coverage of the control system: retailers may be exempted by MS. The status of exporters and subcontractors is also unclear. Wholesalers dealing only with prepackaged products currently benefit from an exemption to the annual inspection, while such operators have been involved in fraud cases.
- b) Follow up of irregularities and sanctions: please see paragraph 2.5.3.4 (e)
- c) Insufficient market control and traceability of organic products.

The difficulties are notably due to the insufficient implementation of risk based controls and to the use of outdated tools. For instance, the documentary evidence for EU organic operators and inspection certificates for imported organic products do not sufficiently ensure traceability and are vulnerable to fraudulent use. So far, the most important fraud cases in the sector involved traders selling conventional products as organic, often through falsification of documentary accounts including organic certificates. Fraud cases can also occur at a much earlier stage, when producers put on the market such products with falsified certificates.

1. Insufficient implementation of the risk-based approach

As a general rule, all operators shall be subject to verification of compliance **at least once per year**⁴⁴. The implementing rules regulation qualifies this annual verification of compliance as a **physical inspection**⁴⁵. Regulation (EC) No 834/2007, while maintaining in any event the obligation of an annual verification of compliance for all operators, introduces a risk-based approach to controls. Namely, it sets out that the nature and frequency of the controls shall be determined on the basis of an assessment of the risk of occurrence of irregularities and infringements. Commission Regulation (EC) No 889/2008 clarifies that, in addition to the annual inspections, CBs shall carry out random control visits, primarily unannounced, based on the general evaluation of the risk of non-compliance with the organic production rules. Three risk factors shall be taken

⁴⁴ Article 27 of Regulation No 834/2007

⁴⁵ Article 65 of Regulation No 889/2008

into account for the risk evaluation: the results of previous controls, the quantity of products concerned and the risk of exchange of products. As from 1 January 2014, the risk analysis has to provide the basis for the intensity of the unannounced or announced control visits; random visits in addition to the annual inspection have to be carried out on at least 10% of operators in accordance with the risk category; and at least 10% of the total annual inspections and additional random visits have to be unannounced.

A full implementation of the risk-based approach would require MS to focus resources where the risk of non-compliance with the rules – including intentional non-compliance that constitutes fraud – is greatest. But the current system requiring annual mandatory physical inspections of all operators, does not allow an efficient use of resources. Operators with a consistently clean record could be inspected with less frequency than once per year, in order to save resources which could be used to target controls to riskier operators. So far, the major fraud cases in the organic sector (Gatto con gli stivali, Italy, 2011) did not affect the yearly inspected producers but traders selling conventional products as organic with import certificates: control visits to address effectively such cases are more difficult and time-consuming.

The external evaluation mentioned that "In contrast to the annual visit of each organic operators, other areas work with considerably lower control frequencies. For example, the EU legal framework for the RD programmes requires annual on-the-spot checks of 5 % of all beneficiaries". A risk-based approach was recommended: "this would allow for identifying low-risk operators and high-risk operators and thus allow a more targeted and dynamic approach to the control process... such a dynamic approach is not compatible with the static approach of the mandatory annual control visit as currently implemented...".

Results of the public consultation show diverse opinions on the issue of control frequency. While the majority of respondents (57%) disapproved the idea of lowering the number of inspections for organic operators with a proven track record of abiding to the rules, a percentage of approximately 36% of the respondents approved it, which is significant for what can be considered as a radical change. The majority of stakeholders representing all categories without exceptions were against the risk-based frequency of inspections of organic operators. The strongest opponents to the idea to lower the number of inspection for trusted organic operators are the following stakeholders in descending order: private CBs (83%), retailers (70%), public CA, public control authorities, accreditation bodies (68%), processors (63%) as well as advisory services (60%) and non-EU public authorities (60%).

However, several MS in the Council argued in favour of a move towards a more risk-based approach (Germany, Italy, Finland, Sweden, the Netherlands), while few of them (Greece) stated explicitly their preference for the mandatory annual inspection. In the stakeholders' consultation, the ones in favour of a risk-based control system were FIBL (Research Institute for Organic Agriculture), Dakks (National Accreditation Body for Germany) and the Finnish Food Safety Authority (Evira). Stakeholders in favour of maintaining the annual inspection are the European Poultry Association, the Soil Association, Bio-Austria, the FNSEA and Synalaf.

The resistance to move to a fully risk-based control system can be explained by:

- the need to re-think the control system, which can be seen as challenging (national CA, accreditation bodies),

- the risk of losing individual advice from CBs, actually resulting from a confusion of roles (farmers); it is also a way for CBs to justify quite high inspection fees (CBs);
- the risk of losing an argument to sell organic products, as suggested by the external evaluation. However, 50% of the respondents to the public consultation didn't know that there is an obligation of annual inspection, despite a relatively high familiarity with the organic farming system (mostly regular consumers with high knowledge of the logo).]

2. Supervision of controls in third countries

The reliability of controls on imported organic products has been questioned during the consultation process. In the public consultation, citizens have been asked to choose proposals to improve the control system in general. **The vast majority of respondents (73%) requested to improve controls on imported organic products.** The issue has been corroborated by stakeholders in the consultation process (see Annex 2).

The recognition of third countries for the purpose of equivalence is considered as a reliable system by the Commission for the control of imported organic products, since it relies on a national CA to supervise controls. The details of the system are presented in Annex 12. The ECA in its report raised the issue of supervision of these recognised countries, currently being addressed with audits by the FVO. In other respects, the ECA also noted a significant backlog in assessing applications for equivalence from third countries, linked to the burdensome assessment procedure.

The obligation to have a control system as effective as the EU one is a limiting factor for the recognition of equivalence of third countries (only 11 countries are currently recognised). Therefore the system of recognition of private CBs is crucial to continue to import organic products from non recognised countries.

The EU is the first country in the world to implement a system of recognition of CBs based on equivalence. Other countries like the US, Canada and Japan, run systems based on compliance to their rules. The EU is supposed to implement both systems in parallel, but the implementation of compliance has been postponed to October 2014. A table providing a comparison between both systems and a comparison of the workload for the implementation of compliance and equivalence are in Annex 12. They show an advantage for the compliance regime.

The issues related to the control system and to the trade regime are regulatory drivers which can be addressed with this initiative.

2.1.1.4. Fair competition among producers not guaranteed and risks for the functioning of the internal market

This part addresses the objective of guaranteeing fair competition as stated in Article 1 of Council Regulation (EC) No 834/2007.

(a) Complex provisions not correctly implemented

The legislation on organic farming includes diluted provisions which are difficult to apply. This is because the legislation was designed for a small sector and intended to take into account any specific case.

An example is the case of "mixed farms" (meaning with organic and conventional production). Article 11 of Regulation No 834/2007 in its first paragraph prohibits conventional production on organic farms. This is motivated notably by the risky nature⁴⁶ of such operators: it can be difficult to control that a farmer has not used non-allowed substances on the organic products, if they are present on the farm. But the second paragraph of Article 11 considerably weakens this provision by introducing circumstances under which "parallel" conventional production is authorized. MS CAs and CBs in third countries face difficulties in applying this confusing provision.

Examples of findings - FVO audits

Presence of conventional production on organic farms, not respecting the EU rules – for instance the same crop varieties were cultivated in their conventional and organic forms on a farm, and therefore the organic production could not be easily differentiated. This was not treated as non-compliances in some MS.

This leads to unfair competition between producers in MS where the rules are respected and the ones in MS where the rules are not respected. In the first case, some producers will not join the organic sector, while in the second case, producers in the same conditions will be able to join the organic sector and to sell products as organic. The issue has been raised during the hearings, for instance by the Bund Ökologische Lebensmittelwirtschaft which recommended the mandatory conversion of the whole farm. No evidence could demonstrate the extent of possible unfair competition entailed by such implementation failures.

It is a regulatory driver that can be addressed with this initiative.

(b) Excessive use of exceptions to the rules

Unfair competition entailed by the use of exceptions to the rules by MS has been demonstrated by the findings of the audits carried out by the FVO in MS in 2012 and in 2013. It usually results from an improper application of EU rules by MS. The main reason for that is the insufficient resources dedicated to the management of the exceptions, which entails a high level of administrative burden.

Examples of findings - FVO audits

- **Retroactive recognition of a conversion period** without adequate justification by some MS competent authorities which leads to unfair competition to producers in other MS who have to bear the full conversion cost;
- **Use of non-organic feed**: exceptions granted to the whole territory of a region or a country without identifying individual operators: this lead to unfair competition for producers in other MS who could not benefit from such derogations;
- **Non respect of animal welfare rules**: dehorning or mutilation such as castration of piglets allowed without prior authorisation, contrary to the EU legislation. Such practices provide an economic advantage to the producers of these MS, compared with producers in MS fully applying the rules.

⁴⁶ This is confirmed by the fact that "mixed farms" are usually tagged in the most risky category by CBs when doing their risk analysis

The issue was also mentioned by MS, for instance Denmark, according to which "there are large differences among MS in the way organic seeds derogations are handled and the way derogation data is reported."

Similar issues have been shown with CBs operating in third countries. The first list of CBs have been recognised for a 3-year period starting from July 2012. Once the CB is recognised, the fact that it applies its own production standard and control measures rather than the EU ones generates a risk of non-equivalent production rules or control measures being applied while remaining undetected. This is shown by the analysis on the CB equivalence regime in Annex 12, which shows that CBs can be tempted to compete on the possibility to decide on exceptions to the rules. In practice, the system is fuelling an unfair competition among CBs, based on lowering standards, as it was reported by stakeholders (see Annex 2). The extent of the problem is linked to the number of CBs recognised under the equivalence regime (currently 60), each one with its own standard with rules as detailed as the EU organic production rules.

The magnitude of the highlighted problem could not be precisely estimated. It is a regulatory driver that can be addressed with this initiative.

(c) *Presence of non-authorised substance residues addressed differently according to MS, CB or third country*

The taking of product sample for the detection of products not authorised in organic farming is already a widely used tool for control purpose. The results of the analysis show in some cases the presence of non-authorised substance-residues in products intended to be sold as organic. It can result either from the illegal use of these substances or from accidental or technically unavoidable presence; more often such substances are found in organic products due to spray-drifts originating from neighbouring non organic production fields, mixing during the transport and storage or other factors, because of coexistence between organic and conventional crop production.

According to the 2010 EU Report on Pesticide Residues in Food⁴⁷, non-authorised substance residues were found in a non-negligible share of organic products:

- 21.4% of organic animal products,
- 9.8% of organic baby-food,
- 11.8% of organic fruit, vegetable and other plant products,
- 8.1% of organic cereals.

These figures include samples with presence of non-authorised substance residues below, at, or above the MRL. **The level of residues found in organic products is rarely above the MRL.** In addition, the share of products with presence of non-authorised substance residues is on average lower in organic than in conventional products.

The legislation on organic production is silent about the possible presence of non-authorised substance residues in organic products. It does not state if the products can still be sold as organic, under which conditions and which procedure has to be followed by CBs and MS CAs, and notably if an investigation is always necessary. The problem

⁴⁷ <http://www.efsa.europa.eu/en/efsajournal/doc/3130.pdf>

also relates to the level of presence of substances found, especially since the sensitivity of analysis is ever increasing.

In the absence of specific provisions in the EU legislation, different approaches have already been adopted by MS or by stakeholders, as described in Annex 11. Italy and Belgium have developed national legislation and the Czech Republic is developing rules. This leads to different treatments of products where contamination is found. Guidelines have also been developed by the main stakeholders IFOAM and EOCC and by associations such as the Bundesverband Naturkost Naturwaren (BNN) in Germany, with different rules and threshold levels, which add to confusion.

As a consequence, products with the same contamination level can be marketed as 'organic' in some MS, in others not, which creates distortions on the market, both in the EU and with Third Countries.

This extent of the issue could not be precisely estimated, but the development of the cases of non-compliances shows its increasing significance. The following table shows the evolution of the number of non-compliance cases on products traded between the EU MS⁴⁸. The vast majority of the cases relate to the presence of non-authorized pesticide residues:

| Year | Number of cases | Including cases involving products imported from third countries |
|------------------------|-----------------|--|
| 2008 | 58 | 5 |
| 2009 | 39 | 6 |
| 2010 | 62 | 6 |
| 2011 | 58 | 11 |
| 2012 | 97 | 25 |
| 2013 up to 12 Nov 2013 | 101 | 26 |

The following table shows the evolution of the number of non-compliance cases on products imported from third countries:

| Year | Number of cases | Still unsolved cases |
|------------------------|-----------------|----------------------|
| 2011 | 34 | 3 |
| 2012 | 67 | 9 |
| 2013 up to 12 Nov 2013 | 90 | 66 |

This is a regulatory issue which can be addressed by introducing in the legislation measures defining the conditions under which a product with presence of non authorized substances residues can be sold as organic.

⁴⁸ Non-compliances cases on organic products sold in the MS where they were produced are not included

(d) Same non-compliance leading to different actions according to MS

The legal provisions on non-compliances to the legislation on organic production and on sanctions are recalled in Annex 9, part 7.

The ECA concluded in its special report 9/2012 that in several MS the CA have not defined detailed categories of non-compliance and corresponding sanctions, as required by the legislation. Namely, this was the case for 3 out of the 6 audited MS (Germany, France and the United Kingdom). As a consequence, each CB defines the non-compliance and applies sanctions in a different way, with considerable differences in control results. This situation leads to operators being sanctioned differently, across MS and even within the same MS, for the same case of non-compliance.

On-the-spot audits carried out by the FVO in 2012 confirmed weaknesses in some MS' follow up to cases of non-compliance. They did not always ensure that irregularities were followed-up and sanctions were imposed in a systematic and timely manner.

Several MS have mentioned their concerns that the same non-compliances are not followed by the same measures in different MS (Germany, France, Spain, Belgium).

The issue can be only partly addressed in the EU legislation on organic production, since the definition of sanctions is a competence of MS.

(e) Multiple certifications needed to have access to certain markets

The fact that production rules are considered too flexible leads some producers to create private schemes with more stringent rules. While some long standing private organic standards have peculiarities which consumers look for, there are examples of new organic schemes created to valorise stricter rules. There has been experience in 2009 after MS had to apply harmonised rules on organic animal production, which led in some MS to less strict rules. In France some producers reacted and decided to identify their products with the creation of a new label *Bio-Cohérence*⁴⁹.

In other respects, the retail sector often requires a second certification, according to a private standard.

Stakeholders have reported concrete difficulties. A dairy company exporting organic products in Europe and all over the world reported difficulties to export to the German market, because the retail sector is dominated by a private scheme. A MS reported that "some suppliers of other MS demand from certain operators that their products be certified by a CB of the MS in question; in addition to the certification (of the MS of origin) where the operator is registered".

It is both a regulatory (when MS themselves impose an additional certification) and a non-regulatory driver. It can be addressed with this initiative by reinforcing the EU organic scheme in order to reduce the development of new schemes and requirements for multiple certifications.

⁴⁹ <http://www.biocoherence.fr/>

(f) *Obstacles to access to third country markets*

EU organic producers are well advanced in the production of processed products, like baby-food or organic wine, for which the demand is growing world-wide. But stakeholders have reported **recurrent export issues**, for examples:

- requirements for CB to be approved by the national CA, before products it controls can be exported as organic to the third country. The process can include bureaucratic, complicated and sometimes insurmountable constraints like a test for the CB inspectors in the language of the country;
- disproportionate requirements such as the obligation that each raw material producer for each cycle of production be inspected by the third country national inspectors before the import of organic processed products can be authorised;
- need for EU CBs to be approved by the national CA to export to a third country, while there was a mutual recognition arrangement;
- use of the national organic logo of a third country obligatory to have access to its domestic market, but only permitted if the product was controlled by a CB recognised by the national CA, while there was a mutual recognition arrangement.

All these issues lead to **increased administrative burden and costs** to the EU operators and **they face an economic disadvantage on many third country markets**.

The extent of the issue is difficult to assess. It would require detailed investigations on the import regimes for organic products put in place in third countries and the way they implement them.

The Commission has started in recent years to develop mutual equivalence arrangements with third countries, notably with the U.S., Canada, Switzerland and Japan, which solve (at least partly) the issues with these countries. However, Council Regulation (EC) No 834/2007 does not include any specific provisions on exports. There is no tool in place to support the export of EU organic products.

The export issue is both a regulatory and a non-regulatory driver, which can be addressed through other tools, notably the action plan.

2.5.4. *Who is affected by the problem, in what ways and to what extent?*

The problem affects not only the organic sector, but also consumers, small farms, national administrations, society and third countries.

Consumers, because there are conflict between their expectations and the reality of organic production; in addition, because of shortcomings in the control system and in the trade regime, some products sold as organic do not fulfil the requirements of the EU legislation,

The organic sector:

- **Producers** respecting the rules of organic farming face **unfair competition** inside and outside the EU,

- The development of the sector is affected by identified lost market opportunities, both on the domestic market and on the export side. The **development of the production of organic inputs** (notably seeds) is hindered by the use of existing exceptions,
- The **competitiveness of producers, processors and importers** is affected by heavy and out-dated procedures,

The smallest farms in the EU which are not joining the organic sector under the current system,

National competent authorities: they face increasing administrative burden mostly due to the management of the control system and of the exceptional rules. Their responsibility in controlling the products on the market, including of imported products, is more and more significant, because of the development of the market,

Society is affected because the sustainable development of organic production in the EU is not ensured.

Third countries, because their producers can face unfair competition. In other respects, some of them have applied for equivalence recognition for several years without a reply.

2.6. How would the problem evolve without a change in policy?

The baseline scenario seeks to provide an outlook for 2025 of the evolution of the main identified problem drivers.

2.6.1. Supply

(a) Obstacles to the development of the sector

Technical and structural obstacles to the conversion to organic farming will persist.

The **issue of certification cost is likely to deteriorate**, because CBs are likely to increase their tariffs, arguing notably on the obligatory annual inspection of all operators. Combined with the effects of the administrative burden, this will maintain the exclusion of the smallest farms in the EU (with less than 5 ha). According to evidence collected during the consultation, even bigger farms will be excluded or forced to leave the sector. The complexity and unclarity of the rules will also discourage new producers to join the organic sector. Therefore **the increase in the number of organic farms is likely to slow down**.

(b) Exception to the rules and complex provisions

Regarding the exceptions to the rules, two of them will expire on 31 December 2014:

- the one authorizing the bringing of non-organically reared pullets for egg production of not more than 18 weeks into an organic livestock unit when organically reared pullets are not available,
- the one authorizing the use of maximum 5% non-organic protein feed of plant and animal origin for porcine and poultry species.

As shown by the external evaluation on the example of Denmark (see Annex 6), the end of the exception to use non-organic pullets should lead to a 100 % organic supply. Even if it leads to a difference of cost, **the production of organic pullets** will be boosted.

The end of the possibility to use non-organic protein feed will probably entail changes in the production of pig and poultry meat. Currently, the majority of organic pig and poultry producers can use strains with a high genetic yield capacity, which need optimal feed rations. Because of the shortage of protein rich organic feed, they rely on the exceptions of the 5 % non-organic feed rule to compensate the organic rations, which usually do not contain enough proteins and they use conventional soy-products, corn gluten or potato protein. The end of the exception could lead to **a des-intensification in the production of pigs and poultry, with more use of slow growing strains or robust breeds**. It could also **boost the production of protein rich organic feed**, notably soya, which would permit to maintain a more intensive breeding system. New techniques are considered by interviewed experts as promising alternatives, but are not entirely ready for a broad practical use yet, such as methods to produce methionine via enzymatic fermentation based on organic raw materials or the use of insect larvae or algae as a protein source for feed.

The sector is preparing for this move. **COPA-COGECA declared that it fully supports the end of this derogation in an AGOF meeting on 21 November 2013.**

However, **two of the main exceptions authorising the use of non-organic inputs will remain:**

- the one authorizing to bring non-organic chicks into an organic poultry production unit,
- the one authorising the use of seed or vegetative propagating material not obtained by the organic production method.

The maintainance of these exceptions will **hamper the development of the sectors of organic chicks and organic seeds and reproducing vegetative material.**

MS will face increasing difficulties to correctly apply complex provisions and exceptions to the rules in a context of limitation of resources. General derogations are likely to continue to be applied instead of individual exceptions.

2.6.2. *Consumer confidence, issues for the internal market*

(a) *Societal and consumer concerns: animal welfare, environmental management systems, pesticides*

In addition, some practices **ignoring animal welfare concerns** will continue to be authorised, either as exceptions to the rules, or as specific cases directly provided in the legislation.

With regard to the environment and the responsible use of energy, the absence of provisions at EU level for organic processors and traders **could undermine consumer confidence**. Few data is available on the use of EMS by food processing, wholesale agribusiness and retail agribusiness companies. The use of EMAS is not much developed in such sector. Some detailed data are provided in Annex 13. Stakeholders have reported that simplified systems are used in the food sector in Germany. Two of them applied in

Lower Saxony are presented in Annex 13. In France, the association of organic processors SYNABIO has launched an initiative "bio-entreprise-durable", allegedly based on the principles of ISO 26000 standard, with a wider scope: sustainability, social and environmental responsibility, authenticity of products, territorial development, etc.

(b) Presence of non-authorised substance residues

The presence of non-authorised substance residues in organic products will become an increasing issue, because the detection level is getting lower and lower thanks to evolving methods of analysis and the detection rate will become higher. Therefore, the share of organic products where non-authorised substance residues are found is likely to increase, while consumer sensitivity, notably on pesticide residues, is already high.

(c) Co-existence of other logos with the EU logo

Because of watered down organic production rules, **new logos are likely to develop and to increase consumer confusion**, notably production rules are considered too flexible, which leads some producers to create private schemes with more stringent rules. Other new schemes can result from societal concerns not sufficiently taken into account in the EU organic scheme.

The proliferation of logos (see examples in Annex 8) leads to consumer confusion and can lead to costly multiple certification requirements. In some cases it disrupts trade between MS, which is an obstacle to the development of organic farming in some MS, where there are still few processors and traders.

If nothing changes, after 31 December 2014 the case of private and national organic logos will fall under the provisions on food information to consumers⁵⁰, according to which "food information shall not be misleading, particularly by suggesting that the food possesses special characteristics when in fact all similar foods possess such characteristics...". At the same time, Article 34 of Council Regulation (EC) No 834/2007 prohibits any restriction to the marketing of organic products produced and controlled in another MS, in so far as those products meet the requirement of the Regulation.

(d) Control system

Fraud cases will continue to develop because of the shortcomings in the control system and in the import regime. At the time of writing this report, the Commission was informed about new fraud cases in the poultry sector. However, there will be a number of improvements as from 1.1.2014 through the application of Commission Regulation (EC) No 392/2013 and, when approved, through the new OFFC Regulation.

⁵⁰ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 – OJ L 304, 22.11.2011, p. 18.

(e) *Import regime*

The import regime will become even more complex and burdensome. From 2014, the Commission will have to implement the second regime of recognition of CBs based on compliance, according to Article 32 of Council Regulation (EC) No 834/2007, but there are obstacles: notably the existence of provisions, notably the exceptions, where MS can decide, and the fact that group certification is not authorised in the EU. Therefore the Commission will have to propose a set of production rules to apply compliance. In addition, Council Regulation (EC) No 834/2007 does not give the basis to require the information in order to ensure the traceability on the whole food chain of imported organic products under the compliance regime (it is provided with the inspection certificate under the equivalence regime). Therefore the implementation of the compliance regime under the current legislation will be weakened. In addition, the interest to have two systems in parallel is limited.

On the other hand, the wide possibilities offered to third countries to export organic products to the EU thanks to the CB equivalence regime **has already lowered the pressure from third countries to be recognised for the purpose of equivalence.** No new request has been submitted to the Commission since the application of the new CB regime.

(f) *Issue of presence of non-authorised substance residues*

More and more MS and private initiatives to address the issue will be taken, leading to different requirements (some may do not require any investigations for instance) and different thresholds. It will lead to more and more unfair competition and to dysfunctionings of the internal market, notably because importers will be inclined to choose to import organic products from third countries through the MS with the lowest requirements.

2.6.3. *Socio-economic impacts of the current legislation*

Organic farming is developing at the expenses of conventional agriculture. However, organic farming would be **more profitable per unit of production** (ha or cow) than conventional agriculture, according to the results of an analysis of FADN data on selected MS⁵¹. In addition, they are **more labour intensive** than conventional ones. This is confirmed by data from the Agence Bio, according to which organic farms represented 3.8% of the UAA and 4.7% of the farms, but 7% of the agricultural employment in France at the end of 2012. Therefore, in this impact analysis it is considered that conversions to organic farming have global positive socio-economic impacts, both on farm income and on employment.

In the baseline scenario, the current average annual increase of 500 000 ha in the organic land area will be difficult to maintain. The increase in the number of organic farms is likely to slow down as well as the associated employment.

The evolution of the income of organic farmers is difficult to forecast, because it depends on multiple factors, notably:

⁵¹ **Organic versus conventional farming, which performs better financially?** Farm Economic Brief No 4, November 2013, European Commission.

- on the price paid for the agricultural products, which is higher for organic than for conventional products. But the competition (sometimes unfair competition) with imported products is likely to push prices down,
- on input costs, which are likely to stay lower in organic than in conventional agriculture,
- on public support, whose evolution will depend on the way MS decide to apply the new CAP instruments benefiting to organic farming: greening, specific and general RD measures.

2.6.4. *Environmental impacts*

Organic farming has positive environmental effects:

- positive impacts on biodiversity derived from general organic production practices resulting in increasing abundance of plants, birds and predatory insects,
- positive impacts on water quality thanks to positive direct and indirect effects of the production rules, even if there is no direct requirement regarding water use.
- positive impacts on soil health and quality, which are enhanced through the obligation to use organic fertilisers and manure, and to practise crop rotation.

In the baseline scenario, these positive environmental effects are limited because of the limitation to the expansion of the organic land area.

2.7. **Does the EU have the right to act?**

The basis for the CAP is formulated in the Treaty on the Functioning of the EU, where article 38 stipulates that “The Union shall define and implement a common agriculture and fisheries policy” with objectives set out in article 39 and detailed provisions in articles 40-44. The Lisbon Treaty has confirmed the relevance of CAP objectives of increasing agricultural productivity, ensuring a fair standard of living for the agricultural community, stabilising markets, assuring the availability of supplies and ensuring that supplies reach consumers at reasonable prices.

The current exercise is an updating of an existing scheme set within the CAP. The first Regulation on Organic Farming was introduced in 1991 in the context of the reorientation of the CAP to encourage diversification of agricultural production and more environmentally friendly production methods. The development of specific products was to benefit the rural economy, particularly in less-favoured or remote areas, both by improving the income of farmers and by retaining the rural population in these areas.

Production and trade of agricultural products and foodstuffs on the internal market and ensuring the integrity of the internal market are matters of EU competence. Both are EU shared competences with MS.

An EU-wide scheme is more efficient than 28 different schemes in view of the smooth development of the single market. In addition, it allows for a stronger and more

consistent trade policy vis-à-vis global trading partners, most notably by enhancing its bargaining power.

Council Regulation (EC) No 834/2007 provides that MS can grant exceptions to the rules in precised framework defined in Article 22. The experience, illustrated in chapter 2.5, has shown that this leads to unfair competition among producers in different MS, risk of loss of consumer confidence, complexity in the legislation and trade issues (difficulties to implement compliance). Further harmonisation at EU level would therefore be appropriate in this area.

The fact that the same non-compliance to EU organic legislation can lead to different actions according to MS is an issue leading to unfair competition and ineffective functioning of the single market. While the definition of sanctions is under MS competence, it would be appropriate to define at EU level broad categories of non-compliances that would require adequate levels of intervention, in particular, the cases where products cannot keep their organic status. This has to be consistent with the review of the OFFC Regulation mentioned in chapter 2.3.

3. OBJECTIVES

3.1. General objectives and consistency with new CAP objectives

The overarching objective of Council Regulation (EC) No 834/2007 is the basis for the sustainable development of organic farming. According to this objective, the development of organic farming is expected to deliver at three levels which correspond to key objectives of sustainable development⁵²:

- **economical**; according to whereas (3), *"the Community legal framework governing the sector of agricultural production... should further aim at providing conditions under which this sector can progress in line with production and market developments"*;
- **environmental**; this is stated in whereas (1): *"the organic production method... delivers public goods contributing to the protection of the environment and animal welfare..."*;
- **social**, by responding to consumer's qualitative and quantitative demand for organic products, and to society's demand for more environmental-friendly production methods; whereas (1) mentions the *"preference for certain consumers for products produced using natural substances and processes"* and *"the organic production method... provides for a specific market responding to a consumer demand for organic products..."*.

While the new CAP represents a further step towards greener practices in agriculture, the existence of an organic farming scheme at EU level is still fully justified, notably because of the gap between the requirements for farmers to benefit from the greening payments and what is required under the EU organic farming legislation. Organic farming is a holistic approach which encompasses economic, social and environmental aspects of

⁵² See notably Commission Communication "Draft Declaration on Guiding Principles for Sustainable Development", COM (2005)218 final, 25.5.2005.

agriculture. The development of organic production is based on the organic market development and includes the whole food chain. Organic products are identified on the market notably through the EU organic logo.

In accordance with the 2014-2020 Common Monitoring and Evaluation Framework for the CAP, the organic scheme contributes to the following general objectives under Pillar I of the CAP:

- "Sustainable management of natural resources and climate action" by providing public goods (mostly environmental) and by pursuing "climate change mitigation and adaptation",
- "Viable food production" by "meeting consumers expectations" and by "improving the competitiveness of the agricultural sector and enhancing the share in the food-chain".

In addition, it contributes to the general objective "sustainable management of natural resources and climate action" by restoring, preserving and enhancing ecosystems under Pillar II of the CAP.

The three following objectives of Council Regulation (EC) No 834/2007 participate to the overall objective of sustainable development:

- (1) ensuring the effective functioning of the internal market,,
- (2) guaranteeing fair competition,
- (3) ensuring consumer confidence and protecting consumer interests.

The external evaluation has made some recommendations to further clarify the legal status of the objectives⁵³ (Article 1) and principles of organic production (Article 3 to 7). A thorough examination of the nature of the objectives and principles of organic farming has shown that both categories could be merged under a single heading: "principles", which should be reflected in the new basic Act.

3.2. Specific and operational objectives

The above problem definition and its drivers lead to the setting of the following objectives:

Specific objectives

1. to remove obstacles to the development of organic production in the EU,
2. to improve the legislation in order to guarantee fair competition for producers and to improve the functioning of the internal market,
3. to maintain or to improve consumer confidence in organic products.

⁵³ Similarly, Regulation (EC) No 178/2002⁵³ ("food law") provides for the policy objectives in its Article 1 (aim and scope) and for principles and objectives in its Articles 5 to 10.

In addition, given the high administrative burden entailed by the EU legislation, the objective of simplification has been considered as a fourth specific objective for the review.

Operational objectives

(1) to define clear and unambiguous production rules

to improve fair competition, to improve consumer confidence and to simplify the legislation. The end of the exceptions to the rules will remove an obstacle to the implementation of compliance to the EU rules in third countries,

(2) to implement a risk-based control system

to improve the efficiency of the control system, to address remaining issues regarding the coverage of the control system. This will allow a better control of riskier operators, thus limiting the fraud cases and contributing to consumers' confidence. It should also lead to lower certification costs, thus reducing an obstacle to join the organic sector. It contributes to all specific objectives,

(3) to harmonise the approach in case of presence of non-authorised substance residues in organic products

to make sure that similar situations do not lead to different actions. It will improve fair competition,

(4) to simplify the administrative requirements in particular for small farmers in the EU

to remove obstacles for small farmers to join the EU organic sector,

(5) to implement a single and reliable system of recognition of CBs in third countries

to ensure a proper supervision of CBs in TCs, to ensure that the controls are effective, to ensure a level playing field for EU producers. It corresponds to the objectives of improving consumer confidence and guaranteeing fair competition. The limitation to one system only will simplify the implementation for the Commission, CBs, operators in third countries and EU importers.

(6) to establish a balanced trade regime

to ensure that EU organic producers have the best possible access to third country markets, thus reducing an obstacle to the development of organic production in the EU.

(7) to clarify labelling rules

to lower the burden of producers, to avoid consumer confusion.

(8) to integrate evolving societal concerns

to address management of environmental performance by processors and traders of organic products and animal welfare concerns. It will make schemes competing with the EU organic scheme less attractive, thus contributing to limit the obligation for producers to be certified according to several schemes to get access to different markets.

(9) to improve transparency and information on the sector and on organic trade

for producers (tools), decision takers (statistics)

4. POLICY OPTIONS

The impacts of three broad coherent policy options have been analysed in details. They are based on three possible solutions to address the identified problem, according to suggestions heard in the hearings and the consultations. They are also based on three different long-term visions of the organic sector. The improved status quo option is based on the approach that has been followed in the last twenty years. The market-driven option aims at providing the conditions to respond dynamically to further market developments. The principle-driven option aims at re-focussing organic farming on its principles.

On the question of exceptions to the rules, option 2 proposes the integration of exceptions as permanent rules in the legislation, while option 3 proposes to remove exceptions. Alternative intermediate options which would remove only part of the exceptions have not been considered for the analysis, because all exceptions are granted for economical reasons (if producers cannot fulfil the requirements for organic production, the products can be sold as conventional at lower price). It is therefore difficult to consider some of them as essential and others as superfluous. But keeping or removing the exceptions correspond to different orientations for the organic sector.

Measures that are not essential for the consistency of the options are presented as sub-options.

4.1. Policy option 1: improved status quo

Option 1 proposes improvements and better enforcement of the current legislation, considered as a minimum to address the identified issues. It does not propose any significant change in the policy orientations. For instance, the current system of exceptions is kept. Therefore, there is no need for an action plan to accompany the sector to adapt.

Option 1 addresses the following issues:

- complex and unclear provisions on production and labelling rules,
- shortcomings in the control system, notably on the following issues: traceability and the presence of non-authorized substance residues,
- obstacles to conversion to organic farming, since a clearer legislation would be more attractive.

In addition, option 1.A addresses the issue of uncomplete coverage of the control system.

During the consultation process, option 1 was supported by the main stakeholders IFOAM EU and COPA-COGECA. However, both have moved since then towards a more principle-driven approach (see Annex 2).

EOCC supported option 1, because of the expected better application of the production rules, better controls and better supervision, as well as the advantages of electronic

certification. Keeping the obligatory annual inspection seems an essential point for EOCC: "the installation of an efficient and meaningful risk-based inspection system does not forcibly need to include the abandon of the annual inspection for each operator".

The instruments proposed are the following:

A Regulation of the European Parliament and the Council to replace Council Regulation (EC) No 834/2007:

- to clarify the status of objectives and principles of organic farming,
- to **clarify the scope** of the legislation by listing precisely processed agricultural products intended for food and not included in Annex I to the Treaty, which can be labelled as "organic", for instance cooked meals or essential oils. The details of the measures are in Annex 6.
- to **clarify production and controls rules** to avoid ambiguities, to fill gaps and to remove legal uncertainty.
- to clarify the **labelling rules**, notably by expanding the limit of 2% for ingredients of agriculture origin not coming from the mentioned area to 5% for the "EU" or "non-EU" indication. The detailed of the measures on labelling are in Annex 8.
- to remove the possibility of recognition of CBs for the purpose of **compliance**. The system of recognition of CBs in place, based on equivalence, is kept. Because exceptions to the rules are not removed, the MS decision level is kept, which is hardly compatible with the implementation of the compliance system.

Measures to reinforce the control system

- the general rules for the accreditation of CBs will be clarified by indicating the standards and specifications against which they should be accredited and the conditions to be fulfilled by accreditation bodies.
- the issue of presence of non-authorized substances or products will be addressed by requiring investigations in case of presence of such residues in organic products and defining a level above which the product may not be labelled as organic. While the principle will be introduced in the basic act, the details will be defined in a delegated act. The experience of existing initiatives, notably in the MS which have defined such rules, will be taken into account. As shown in Annex 11, the "baby-food limit" would be the best adapted level.
- implementation of a system of electronic certification to enhance traceability and control and at the same time to reduce the administrative burden for operators, CBs, and public administration. It will exploit the synergies with the Commission's information management system for official controls to be set out according to the proposal for a new Regulation on official controls. This system will integrate and/or provide the appropriate linkages to the existing computerised systems managed by the Commission (namely TRACES: Trade control and expert system, and OFIS).

Possible sub-option 1.A:

- end of the possible exemption for retailers from the control system. Retailers will be submitted to the same control requirements as other operators and will be subject to a risk analysis, taking into account the results of previous controls if available, the quantity of products sold and the risk of exchange of products.

4.2. Policy option 2: market-driven option

Less stringent production rules allow producers benefitting from current exceptions to continue to produce organically, and newcomers to join more easily thanks to the integration of exceptions as normal rules in the legislation. The control system is amended as in option 1. The import regime is unchanged. A sub-option imposing an obligation of results on all organic operators, regarding the absence of non-authorised substance-residues in organic products is proposed.

Option 2 addresses the following issues:

- complex legislation, difficult to implement,
- risk of unfair competition due to excessive use of exceptions,
- shortcomings in the control system (the rules become easier to control),
- high administrative burden linked to the management of exceptions.

However, the option will lower the standard, with a renewed risk of multiplication of logos.

Option 2.A addresses the main consumer concerns, who wish products without residues. It corresponds to a conception of organic farming less production process oriented, but with an obligation of result at the end.

Option 2 was supported by several stakeholders during the consultation (see Annex 2), notably **Eurocommerce**, which considers that the EU rules are only the baseline to market products as organic and that the Regulation should be permanent on the lowest common denominator. In particular, an increase in the volume of organic processed products is seen as essential for the further development of the sector. Eurocommerce is against ending possible exceptions for retailers to be covered by the organic control system.

The instruments proposed are the following:

An Action Plan defining a strategy for organic farming in the EU, putting forward an adequate use of existing tools and an appropriate coordination with other EU policies in order for the organic sector to develop as required by the market. It includes appropriate instruments to increase information on the sector in the EU (market, production, added value, trade) and accompanying measures to improve and increase controls on final products.

The main stakeholders IFOAM EU and COPA COGECA call for a new action plan.

A Regulation of the European Parliament and the Council to replace Council Regulation (EC) No 834/2007:

- to amend the objectives and principles of organic farming and to clarify their status,
- to **integrate as provisions of the EU Regulation current long-lasting exceptional rules** granted by MS as provisions in the EU Regulation; to re-introduce exceptional rules expiring end 2013 and end 2014; to clarify diluted or complex provisions by making more transparent the permitted flexibility,
- to draft production rules in a stand-alone document addressing the issue of readability and making imports possible under a compliance regime,
- to include legislative measures presented in option 1,

Measures to reinforce the control system (as in option 1: accreditation and electronic certification)

Authorisation of substances and practices for organic farming under the responsibility of the sector.

Electronic certification as in option 1.

Possible sub-option 2.A:

- Introduction of specific maximum thresholds (below MRL) for the accidental presence of non-authorised substance residues in organic products.

Sub-option 2.A would entail systematic analysis of organic products and differs from the measures proposed as improvements in option 1 where analysis remain a control tool conducted on a sample of products according to a risk-analysis.

While it corresponds to consumer demand, the main stakeholders, in particular IFOAM EU, are against such approach: "*organic farming is defined from the beginning by a process approach (...) most of the criteria cannot be verified by analytical methods (...) if the sector is trained to verify the organic integrity of a product by analytical methods, based on thresholds, market access will be established by those findings and not by compliance with process criteria of the organic Regulation. This would turn the organic process quality approach into the direction of an (end) product approach*".

4.3. Policy option 3: principle-driven option

Production rules are strengthened by removing any flexibility, considering that flexibility had been introduced to make easier the conversion of holdings when the organic sector was embryonic, but that it is not justified any more in the light of the development of the sector. The control system is amended to reinforce the risk-based approach and to further enhance enforcement. On the import side, the equivalence regime is replaced by compliance, since the strengthening of production rules involves changes in the import regime in order to be consistent. A regime of equivalence with third countries remains. One sub-option proposes the introduction of an obligation for processors and traders to improve their environmental performance, and a second one the introduction of specific measures for small farmers.

Option 3 addresses the following issues:

- complex legislation, difficult to implement,
- risk of unfair competition due to excessive use of exceptions,
- shortcomings in the control system (risk-based approach, harmonisation of actions to address instances of non-compliances),
- shortcomings in the import regime, with the move from equivalence to compliance for CBs,
- societal concerns with improved animal welfare conditions in organic farming,
- consumer concerns and risk of multiplication of logos, with strengthened rules,
- high administrative burden linked to the management of exceptions.

The main stakeholders, IFOAM EU and COPA-COGECA, have shown interest in option 3 during the consultation process but without supporting it. However their position has progressively changed. IFOAM EU has acknowledged that this option is close to the movement's objectives, according to which *"the process approach to organic quality definition and certification should be maintained and strengthened and the EU organic Regulation further developed with regard to quality and integrity, so that it can be an effective tool to move all organic practice close to its aims and principles"*.

Option 3 was supported by several organisations, notably animal welfare organisations. (see Annex 2).

If combined with the first sub-option, option 3 addresses concerns about environmental issues, which should improve consumer confidence.

If combined with the second sub-option, option 3 will remove some obstacles for small producers to join the organic sector.

The instruments proposed are the following:

An Action Plan defining a strategy for organic farming in the EU, putting forward an adequate use of existing tools and an appropriate coordination with other EU policies in order for the organic sector to develop while remaining close to its values and principles. It includes:

- appropriate instruments to increase information on the sector in the EU (market, production, added value, trade),
- because of the end of exceptions, it will in particular call for measures to further address technical constraints for producers, by finding synergies with EIP⁵⁴ and Horizon 2020 instruments (uptake and dissemination of research results; better identification of research and innovation needs of farmers and producers),

⁵⁴ EIP on agricultural productivity and sustainability

- creation of a permanent expert group for the examination of new techniques and substances to be considered in organic farming and finally prioritising examination of new techniques and substances,
- a specific export policy, for which the Commission will ask a mandate to the Council.

Most MS have mentioned the need for reciprocity in future arrangements with third countries, in addition to stakeholders like COPA COGECA: "*the Commission must pay greater attention to rules of mutual recognition as part of agreements with third countries*".

A Regulation of the European Parliament and the Council to replace Council Regulation (EC) No 834/2007:

- to remove exceptional rules from the Regulation but possible temporary measures to allow organic production to continue or recommence in the case of catastrophic circumstances will remain, as well as the possible exception allowing the tethering of animals in micro-enterprises. Exceptions will be phased out with transitional periods, shorter in cases where farmers only have to amend the management of the farm, but longer in cases where the change does not depend on the farmer (e.g. availability of organic seeds on the market – in this case a transitional period until 2021 will be proposed). IFOAM EU acknowledged that some current exceptions (the use of non-organic animals, the use of non-organic feed and the addition of non-organic yeast extract) could be deleted or converted to transitional rules. However, some of them should be converted to permanent rules, like tethering of animals in small holdings. In the case of organic seeds, the organisation said the immediate deletion of exceptions could have a strong impact on the sector, but the current revision process should be used to make further progress in this area.
- to oblige organic holdings to be entirely managed in compliance with the requirements applicable to organic production,
- to put an end to the retrospective acknowledgement of conversion,
- to draft production rules in a stand-alone document addressing the issue of readability and making imports possible under a compliance regime,
- to include provisions on exports of organic products. The possibility to establish an export certificate will be included in the basic Act and the details will be provided in implementing rules. The export certificate will be a standardised document that could be used by EU organic exporters as a tool to prove that the product has been produced according to the EU organic standard and that it has been controlled according to the EU control system. The intention is to implement an electronic certificate in coordination with existing documents, notably the SAD (single administrative document – documentary basis for customs declaration) in order to avoid the duplication of request of information and to make the system as smooth as possible. Once the tool will be in place, the Commission will be able to use it when negotiating with third countries. It should facilitate the conclusion of reciprocal agreements, since the third country will not have to implement an organic import system; EU organic products will be easily identified.

- to remove the possibility of recognition of CBs for the purpose of equivalence (Article 33 (3)), with appropriate transitional measures to avoid market disruption and to give CBs time enough to be prepared to move from an equivalence to a compliance regime. In practice, the transition between equivalence and compliance is already starting through adaptations of Commission Regulation (EC) No 1235/2008 to apply compliance. For their next 3-year recognition period, which coincides with their accreditation cycle, CBs will have the possibility to apply compliance. The new basic Act will provide that the recognition of CBs for equivalence shall expire on 31 December 2018 at the latest.
- to adapt the system of **recognition of CBs for the purpose of compliance** (Article 32), notably by including in the basic Act provisions requiring sufficient information to ensure the full traceability of imported organic products.
- to include legislative measures presented in option 1, except removal of Article 32 on import of compliant products.

Measures to reinforce the control system:

- to reinforce the risk-based approach by adapting the control frequency so that organic operators with a proven clean record can be physically inspected less than annually and/or be subject to a reduced annual physical inspection where feasible. This would free resources that would be concentrated on those areas and operators presenting the highest risks.
- to clarify the existing provisions on irregularities and infringements by defining categories of non-compliance that, by affecting the organic status of products, require the application of a uniform level of measures by the competent authorities across MS – independently from the penalties and sanctions that each MS will lay down.
- to introduce electronic certification as in option 1.

Possible sub-options:

- 3.A: Introduction of an obligation of improving environmental performance for organic processors and traders, with the exception of micro-enterprises. In case they deal with both organic and conventional products, such operators will have to run an EMS system for all production units where organic products are processed, packaged or stored.
- 3.B: Simplified requirements for small farmers and introduction of group certification.

The details for the measures proposed as sub-options will be provided in delegated and/or implementing Acts.

4.4. Options discarded at an early stage

Options defined by the use of alternative legal instruments have been considered but have been discarded at an early stage:

- The use of a framework directive would not meet the objective of more simplification. Unfair competition issues could arise because of the absence of harmonised rules. Equivalence arrangements with third countries would probably be put into question.
- The introduction of "organic farming" as an optional reserved term under Council Regulation (EU) No 1151/2012⁵⁵ on quality schemes for agricultural products and foodstuffs would not acknowledge the holistic approach of organic farming which is not only a quality scheme but also a specific way of farming.

These options got no support among stakeholders and MS.

The harmonisation of organic production rules for textiles and cosmetics was considered but discarded because the need for EU action is not demonstrated. The external evaluation recommended not to extend the scope to these products. Few MS (Italy) supported this suggestion. Some of them recommended to explore this possibility (Sweden, Romania, Estonia). Spain called for the introduction in the scope of the legislation of certain textile products. But most MS were against. Germany stated that "it should be noted that including textiles and cosmetics would enormously expand the legal framework and render it much more complex." IFOAM EU stated that "European standards for textiles, cosmetics and other products which use the term "organic" must be established so as not to undermine consumers' confidence in organic farming products."

The co-Regulation and self-Regulation options could result in difficulties for the sector to develop high and harmonised EU production rules accepted by society all over the EU. They could also undermine consumer confidence, since the EU Regulation and the official control system are important reasons for consumers to trust organic products. They got no support among stakeholders and MS.

The no-EU action option would bring the EU organic sector in a weak position on the global market, where there is a general trend towards more harmonisation in production rules. The use of the international standard included in the Codex Alimentarius guidelines for the production, processing, labelling and marketing of organically produced foods⁵⁶ would lead to a similar situation, since MS could decide on national legislations. The standard is not designed to be directly applied in WTO Member countries. In particular, the decision-making process is heavy and long and would not be appropriate to decide on implementing rules. It was not supported by stakeholders.

The inclusion of catering in the scope of the legislation, was also discarded because the added-value at EU level has not been proved. The external evaluation has recommended not to extend the scope of the EU legislation to catering. MS have adopted measures which do not pose any problem to the functioning of the single market. These national schemes for organic catering are regularly notified to the Commission and to other MS as technical standards. Several MS are opposed to the introduction of catering in the scope of the legislation on organic production (Poland, Latvia, Estonia, Bulgaria, Ireland, UK, Belgium, Denmark, Czech Republic). The rationale for that vary. Most of MS want to avoid to receive a new resource-demanding competence, others, like Denmark, are

⁵⁵ Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs - OJ L 343, 14.12.2012, p. 1.

⁵⁶ GL 32-1999

strictly opposed because they have implemented a successful national system. Other MS (Italy, Germany, Luxembourg, Slovenia, Greece, Sweden, Cyprus, Spain, Romania) were in favour of the introduction of catering in the scope, at least partial.

According to IFOAM EU, "*catering should only use the word organic according to national rules as there is little cross-boarder market for catering, consequently a common EU standard is not required*".

5. IMPACT ANALYSIS

The period considered for the impact analysis is 2016-2025, with 2016 considered the first year when the reviewed policy applies. Between 2011 and 2016, the baseline applies. This part analyses how the options presented in chapter 4 can impact the market of organic products (supply and demand). Socio-economic and environmental impacts, including animal welfare conditions, have been examined, as well as possible international impacts.

The development of organic production in the EU is accompanied by a corresponding reduction of conventional agriculture, since the lands converted to organic agriculture is usually taken from the conventional sector. Therefore, since all options are expected to entail an increase in the organic land area, a corresponding decrease is expected in the conventional sector. Where relevant, other possible impacts of the options on conventional agriculture are indicated.

5.1. Option 1

Supply

Positive factors: unfair competition is reduced on the EU market by addressing the issue of presence of non-authorized substance residues, which also improves the functioning of the internal market. Unfair competition with third country producers entailed by the CBs equivalence regime is slightly reduced, thanks to the harmonisation of the accreditation system both in the EU and in third countries.

Negative factors: technical, economic and structural obstacles to the development of organic production in the EU are not reduced. The exceptions hinder the development of the sectors of organic chicks and seeds. High administrative burden and certification costs remain. Small producers continue to be excluded.

The option is not likely to have significant effects on the volumes of organic products on the market and on prices.

Demand

Positive factors: labelling improvements are seen by IFOAM EU as positive. "They will minimise confusion of consumers". The risk of fraud is slightly reduced thanks to the introduction of electronic certification.

Negative factors: production rules are still watered down. Private schemes and logos continue to multiply, since evolving and societal consumer concerns are not met and the production rules remain quite weak.

The market expansion is expected to slow down at the end of the period because consumer confidence is not significantly improved.

Socio-economic impacts

The organic land area, the number of farms and the employment are expected to continue to increase, with a less pronounced slow-down compared with the baseline scenario. No significant change is expected in the income of organic farms.

Processors and traders benefit from clearer and simpler rules on scope and labelling, as stated by IFOAM EU "*reducing the complexity has a positive impact on social and economic performance*".

The harmonisation of measures applying in case of presence of non-authorised substance residues in organic products improves the level playing field, notably to the benefit of SMEs of the sector.

Environmental impacts

The increase in the organic land area is higher than in the baseline scenario and the organic production rules applied to farming are identical to the baseline scenario. Therefore, the environmental impact of option 1 is slightly positive.

Animal welfare

This option does not improve animal welfare conditions in organic farming.

International impacts

This option has the same impact on third countries as the baseline scenario. However, the introduction of electronic certification and the marginal improvements in the labelling rules contribute to reduce paper-based procedures and then to **slightly ease organic imports**.

5.2. Option 1A

Supply

As in option 1

Demand

Positive factor: a further reduction in the risk of fraud is expected.

Socio-economic impacts

There is no official data on the number of retailers selling organic products in the EU, but the change will have an impact on almost all retailers in the EU, according to Eurocommerce.

Retailers are supposed to face general inspection requirements under the food law and the specific requirements as organic operators are not expected to generate much additional burden. However, Eurocommerce has underlined that it could entail some costs, but without precise figures: *"Including retailers in the specific organic control system will increase the costs for retailers and of organic products, without adding any value for the consumers. In some MS private certifiers have already developed inspections of retailers to enable them to sell un-packed fresh products. For retailers selling only packed organic products, additional inspections do not have any benefit. This additional cost linked to the controls would make the organic products less competitive, and the consumers less interested"*. Therefore Eurocommerce is against this option.

The most impacted MS will be the ones with the highest share of the market: Germany, France, the United Kingdom.

Environmental impacts

As in option 1.

Animal welfare

As in option 1.

International impacts

As in option 1.

5.3. Option 2

Supply

Positive factors: the integration of exceptional rules as permanent rules in the legislation leads to more flexible rules; more conversions are expected at the beginning of the period, leading to more volumes on the market.

Negative factors: flexible rules fuel competition with imported products and prices paid to the producers decline. The sector becomes progressively less attractive. Some organic producers fully applying organic principles (not using exceptions) leave progressively the sector to join or to create private quality schemes.

The development of the production of "organic inputs", notably organic chicks and organic seeds reduces, because rules provide flexibility to use non-organic ones. According to IFOAM EU: *"investments and efforts of operators willing to overcome these exceptional rules would be frustrated if all exceptions were made permanent."*

The situation for small farms does not improve.

Demand

Positive factors: the volume of organic products on the market is likely to increase and prices to decline, depending on how the variations of price are transmitted along the food chain.

Negative factors: watered down rules which do not integrate societal and consumer concerns, as mentioned by IFOAM EU: "*including all current long lasting exceptional rules would have a negative impact at consumers' perception level.*"

New schemes and logos are likely to multiply, fuelling consumer confusion.

This will lead to some erosion of consumer confidence. It is difficult to estimate if lower prices can compensate for the loss of confidence.

Socio-economic impacts

An increase in the number of conventional farms converting to organic is expected at the beginning of the period. Therefore, the number of farms and the employment in organic farms increases at the beginning of the period, but slows down at the end.

The gross-margins and income should decrease at the end of the period because of lower prices paid to producers, under the pressure of imports.

Organic processors are supported by lower prices of raw materials, but they are affected by the market deterioration at the end of the period.

Organic seeds and vegetative propagating material and organic chicks producers will be negatively impacted in this option. Producers in MS which have developed national rules for organic chicks (e.g. Denmark) will face unfair competition.

Environmental impacts

The option is expected to be slightly positive in comparison with the baseline scenario. The integration of exceptions leads to less environmentally friendly practices. For instance, the proportion of use of non-organic seeds is likely to increase and the benefits associated with the cultivation of these organic seeds will be lost. But it is compensated by a further increase in the land area.

Animal welfare

The integration in the legislation of exceptional rules allowing for dehorning, tethering of animals in small holdings, indoors final fattening phase of adult bovines for meat production leads to the deterioration of animal welfare conditions. Producers will have some flexibility to apply such derogations without individual or collective exemption.

International impacts

An easing in imports, but obstacles on the export side, is expected. Since production rules are less stringent, **third countries are more reluctant to recognise the EU as equivalent**. Some concluded agreements/arrangements with third countries can be questioned.

Example: equivalence arrangement between the EU and the U.S.

The EU and US have recognised each other's organic production rules and control systems as equivalent under their respective rules. This equivalence arrangement took effect on 1 June 2012.

The arrangement was concluded in the form of an exchange of letters between both administrations. According to these letters, the European Commission must notify the US administration in a timely manner of any proposed EU legislation that would modify any of the EU regulations referred to in the arrangement. A new assessment of the equivalence of the new EU legislation with the US legislation should be carried out jointly by both administrations.

The discussions and decisions on the assessment of the equivalence would take place in the framework of the EU-US Organics Working Group that was set up by the arrangement. The group consists of

Organic producers in non-recognised third countries continue to benefit from flexible rules under equivalence, which should allow a continuous export flow to the EU.

5.4. Option 2.A

Supply

Negative factors: a share of the products produced on organic farms cannot be marketed as organic because of presence of non-authorized substance residues above the defined threshold. Depending on the threshold, up to 21.4% of organic animal products, 9.8% of organic baby-food, 11.8% of organic fruit, vegetable and other plant products and 8.1% of organic cereals could be declassified (according to EFSA figures – see 2.5.2.3). Extra-costs linked to the analysis lead to further obstacles for small farms to join.

Demand

Positive factors: This option would have positive impacts on consumer confidence. The organic sector could communicate on the absence of non-authorized substance residues, thus addressing the main consumer concern.

Negative factors: according to IFOAM EU, "*introducing a threshold that determines the organic status would upset the basic concept of organic farming and principles*". This could lead to some confusion. In addition, the systematic sampling and testing of organic products, and the interpretation of results, could lead to an increase in the price of organic products.

Socio-economic impacts

The obligation to test a sample of all organic products lots would have an impact on costs for all operators which could be significant. The lower the threshold, the higher the cost. There is a risk that the costs of sampling, testing and analysing the results become disproportionate in relation to the economic dimension of organic operators. In addition, it would result in products produced on organic farms and/or processed in respect with the rules, not to be sold as organic because of an accidental and unintentional contamination with non-authorized substances. Depending on the threshold, the share of the production that would have to be declassified and sold as conventional would vary between 0.44 and 21% for animal products, 0.67 and 9.09% for baby-food, 1 and 10.8% for fruit, vegetable and other plant products and 0.36 and 7.76% for cereal products (according to EFSA data presented in Annex 11).

Environmental impacts

Like in option 2.

Animal welfare

Like in option 2.

International impacts

The systematic testing of samples for non authorised substance residues could entail disproportionate costs for producers in developing countries.

Impact on conventional agriculture

Products from conventional agriculture, by contrast, could be seen as the ones "with pesticides", which could entail a loss of consumer confidence in conventional products.

5.5. Option 3

Supply

Positive factors: new stricter rules reinforce farmers' confidence in the organic scheme. Organic farmers fully applying organic principles (not using derogations) are more inclined to remain in the sector.

The end of the exceptional rules boosts the sectors of organic inputs, notably organic chicks and seeds.

The action plan will contribute to reduce technical obstacles to the development of organic production. On the export side, a better access to third country markets is expected thanks to negotiations with third countries interested in mutual recognition agreements with the EU. The negotiations will take advantage of tools like the export certificate, which will permit the identification and traceability of EU organic products.

Negative factors: some producers have to leave the sector because they want to keep a part of conventional production on their holding. IFOAM EU considers that "the conversion of the entire farm is the aim and this provides the basis for fulfilling the organic principles in the best way". Nevertheless, both IFOAM EU and COPA COGECA point out practical or economical reasons for farmers not to be able to convert their farms at once. Other producers have to leave because their system depends on exceptions, as mentioned by IFOAM EU: "remove all exceptions to the rules today would mean exclude many operators, in particular in new MS and in disadvantageous areas". No data has been provided to corroborate this statement.

Stricter rules can be seen as a barrier to conversion, notably because of insufficient availability of inputs such as seeds in their organic form. As a result the price of organic inputs could increase and weigh on production costs. This could be the case in MS where organic farming is less developed. But the transitional period until 2021 allows for a progressive development of certain organic inputs. Their development on the medium or long term should lead to cheaper and more adapted inputs, and to an improved productivity in the organic sector. Notably, the increase in the size of the market of

organic seeds should allow companies of the sector to invest in new varieties adapted to organic growing conditions, with expected yield increases.

Stricter import rules restrain imported flows and result in less competition.

Demand

Positive factors: the market should expand more securely thanks to improved consumer confidence, which is likely to progressively lead to less competing private organic schemes and logos. The potential for organic national logos to differentiate from the EU one should reduce. Their use could be progressively abandoned, which would subsequently improve the functioning of the internal market for organic products.

Negative factors: the volume of organic products on the market at the beginning of the period could be lower than in the baseline scenario, thus leading prices to increase. Depending on the transmission of prices effects along the food chain, higher production costs could result in increased consumer prices for organic products. The public consultation has shown that the majority of citizens is ready to pay more for organic products, provided that the price difference remains reasonable (see Annex 2). Too high prices would make organic products less attainable for lower income consumers. Therefore option 3 could lead to a contraction of the market instead of an expansion at the beginning of the period. However, expected lower production costs in the medium and long term (see above) should be accompanied by lower consumer prices, thus reducing the probability for such a market contraction, if any, to continue over the short term.

Socio-economic impacts

According to the most probable scenario described before, the **organic land area** and the **number of farms** are likely to increase slightly at the beginning of the period, more significantly after, as well as the employment on organic farms.

There is no precise data on the share of organic farms with parallel conventional production. It is estimated at a few percents of the total organic holdings in the EU. These farms could choose to fully convert to organic production, if a sufficient transition period is allowed, because of the positive market outlook in the sector. This cannot be corroborated by their views because no specific consultation to such farmers could be done.

Prices paid to producers should increase. However, because of the end of exceptional rules, production costs will also be higher (ex: crops and vegetable growers to use 100% organic seeds). Production costs are likely to decrease gradually with the development of the production of inputs in their organic form. In other respects, some organic farms will need important investments to adapt buildings to animal welfare requirements.

Environmental impacts

The effect on the environment depends on the evolution of organic production in the EU, linked to the organic market. The removal of exceptions to the rules stresses organic farming positive impacts on environment. For instance, the generalisation of the use of organic seeds leads to a significant increase in the organically managed land area for the production of such seeds, with positive associated effects.

Animal welfare

The end of exceptions to the rules leads to better animal welfare conditions. Mutilations and indoors final fattening phase of adult bovines for meat production are not allowed any more.

International impacts

Existing equivalence arrangements with recognised countries have to be reviewed in order to maintain a level playing field for EU producers.

The move to a CB compliance regime will renew the interest from third countries to be recognised as equivalent, in order for their producers to be able to produce according to their national rules instead of the EU rules.

Imports from developing countries

Non recognised third country producers will have to comply with EU rules which will have an impact on producers in developing countries. According to IFOAM EU: "*compliance is in most third countries not appropriate because climatic, social and cultural differences to EU countries(...) this option would lead to negative, social, environmental and economic impact.*"

DG AGRI has analysed the production rules applied by CBs in developing countries within the current regime of equivalence. The analysis is presented in Annex 12. It comes to the following conclusion:

- most provisions included in the CB production rules are identical to EU production rules,
- cases where the provisions are different mostly refer to provisions of the EU Regulation on which MS have to decide, notably on the exceptions. In such cases, some CBs apply the lowest possible standard, while other ones apply strict rules.

The most important products imported from developing countries in terms of volume are bananas, coffee, citrus fruit and cocoa. Animal products are hardly imported. No case of impossibility to apply the EU organic production rules because of local geographical or climatic reason was found. Most of the products are produced by grower groups⁵⁷ certified according to group certification requirements, which are considered equivalent to EU control measures, but not authorised in the EU. Therefore, a move to the compliance regime without group certification being authorised in the EU would result in the obligation to apply individual certification, which would **entail disproportionate burden and costs for most producers currently in recognised grower groups.**

5.6. Option 3.A

Supply

As in option 3.

⁵⁷ Louis Bolk Insitute and FIBL, hearing

Demand

Positive factors: in addition to option 3, consumer confidence is expected to improve, because it addresses a developing concern.

Socio-economic impacts

Processors and traders of organic products, with the exception of micro-enterprises, have to apply an environmental management system. The most impacted MS will be the ones with the highest production of organic processed products: Germany, France and Italy. It will entail increased efficiency and energy savings, which are likely to more than compensate the additional costs, as shown by the results of a study on the costs and benefits of EMAS to the registered organisations⁵⁸ carried out in 2009. Potential annual efficiency savings for small enterprises amounted to 20.000 to 40.000 Euro, with an annual cost to run the system at 22.000 Euro. For medium enterprises, the savings exceeded 100.000 Euro, while the annual cost was 17.000 Euro. However, the implementation cost in the first year is higher than the savings. For micro-enterprises, the savings do not compensate for the additional costs, but they are not covered by the proposed measure. The details are presented in Annex 13.

Environmental impacts

This sub-option is more positive for the environment, because processors and traders will adopt more environmentally-friendly practices.

Animal welfare

As in option 3.

International impacts

Processors and traders in third countries (except micro-enterprises) will have to implement an EMS.

5.1. Option 3.B

Supply

Positive factors: the implementation of group certification in the EU will reduce certification costs for group members after a few years of implementation. In addition, it will mitigate the burden of administrative requirements, thus reducing obstacles to conversion to organic for small farmers. It should benefit to MS with the highest share of small farms: notably Romania, Bulgaria, Hungary, Poland, Portugal, Greece, Italy and the Baltic States. Potentially all categories of products would be concerned. It could give a boost to organic fruit and vegetable production, which is usually more labour intensive.

⁵⁸ Study on the costs and benefits of EMAS to registered organisations (2009). Milieu Ltd and Risk and Policy Analysis Ltd for DG Environment of the European Commission.

http://ec.europa.eu/environment/emas/pdf/news/costs_and_benefits_of_emas.pdf

A pilot project⁵⁹ on Group Certification in Turkey, France, Italy and Spain, showed that group certification costs were higher than individual certification in the first two years but became cheaper in the subsequent years. It also showed that an internal control system (ICS) does not only serve organic certification but also has other benefits, such as farmer-to-farmer advice, quality improvement, joint marketing or promoting a specific agricultural region.

Demand

Positive factors: products produced on small farms are positively perceived by some consumers.

Negative factors: the implementation of group certification in the EU could undermine consumer confidence because controls could be suspected to be less effective. However, even if the objective is to reduce controls from CBs of individual members of the group, the system involves an ICS which has to comply with precise requirements.

In the public consultation, 70% of the citizens agreed that group certification should be allowed in the EU. Stakeholders who supported the proposal were: non-EU public authorities (80%), consumers (74%), researchers (71%), citizens (71%), advisory services (70%) and others (67%). The most significant opponents were private CBs (44%), national associations (37%), farmers (36%) and retailers (31%).

Socio-economic impacts

Group certification is a way to address small farms' concerns, which proved to be effective in developing countries. The potential to develop in the EU depends on farm structures in the different MS. MS with many small-scale farms are Bulgaria, Romania, Poland, Hungary, Italy, Greece and Portugal.

It is expected to lead to further increase in the number of organic farms and in the organic land area.

Environmental impacts

The option is positive for the environment because of the increase in the land area.

Animal welfare

As in option 3

International impacts

Sub-option 3.B allows a smooth move to compliance for the CB import regime. Developing country producers, including those in recognised grower groups, will be able to apply compliance with the EU rules.

⁵⁹ Pilot Project Group certification in Europe, end report, Agro Eco, Ferko Bodnár, May 2008. The pilot project was funded through the "IFOAM-Growing Organic" programme and the "Fund for Sustainable Biodiversity Management" of the Dutch government.

5.2. Simplification and administrative costs

5.2.1. Simplification associated with the options

All options are expected to remove ambiguities and make the legislation more user-friendly, thanks to clearer provisions. Gaps on the scope, on production rules and on controls will be addressed. **Many ineffective provisions are removed** in the three options, but more in option 3 (end of mixed farms, reinforcement of the risk-based approach on controls, etc). More details on simplification areas brought by the different options are provided in paragraph 6, notably in table 6.2.

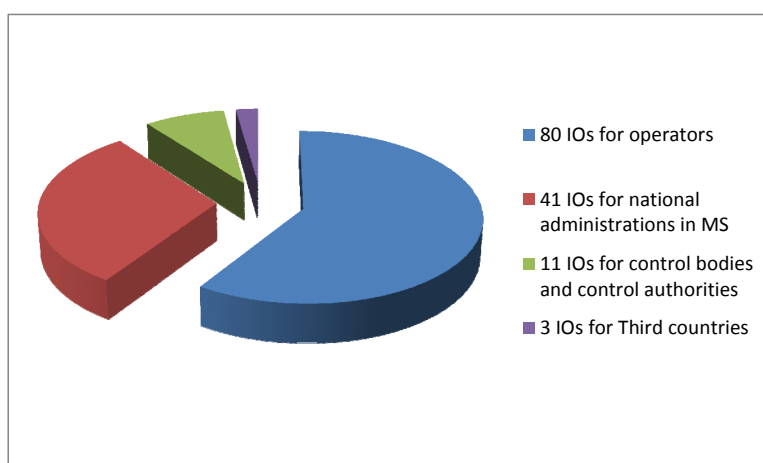
Simplification for small producers has been considered in the course of the impact assessment. By nature an exemption of controls is not compatible with the requirements of product certification. However, a major simplification for the smallest farms is brought by **group certification** (sub-option 3.C), which allows for more proportionate inspection and register-keeping requirements. More details are provided in Annex 15.

These elements, as well as the investigation on administrative costs, have been used to compare the options in terms of efficiency (see table 6.2).

5.2.2. Assessment of administrative costs

Particular attention has been paid to the administrative costs that the legislation imposes on national administrations, operators and CBs. In table 1 of Annex 16, a complete list of **135 IOs** which are imposed by the EU organic legislation and could potentially involve administrative costs was compiled. MS and stakeholders (in AGOF) were consulted on the completeness of the mapping and, at the same time, they were asked to identify and quantify IOs which are the most burdensome for them. IOs relating to provisions which are currently being phased out have not been considered, since they are not part of the baseline scenario. They relate to exceptions (to use of up to 5% organic feed for pigs and poultry, to bring non-organically reared pullets for egg production to organic livestock unit and colouring of eggs) and to the possibility for MS to grant import authorisations.

Graph 5.2.2.1: Number of information obligations



While **80 IOs are imposed on operators**, the total number of IOs imposed on a particular operator largely depends on the type of operations: plant production, animal production, aquaculture, processing, etc. the operator is running. For instance, 10 out of the 80 IOs concern only operators with aquaculture production. The most burdensome IOs are to keep documentary evidence of the need to use (authorised) plant protection

products and fertilisers, the control arrangements and undertaking necessary to enter the organic scheme, to keep specific register of livestock records and to keep documentary evidence in relation to coexistence of organic and conventional production.

Out of **41 IOs imposed on MS**, the most burdensome are, in descending order, to provide statistical data on the organic production in their country, to publish up-to-date lists of operators and to provide a summary report on authorisations of non-organic seeds.

Out of 11 IOs imposed on CBs, the most burdensome are to grant derogations to operators for use of non-organic seeds, to request inclusion in the EU equivalent recognised Third countries CBs list (the first inclusion has been granted for 3 years), to provide an annual report on their activity and to verify the indication of the CB's code number in the label of organic products, which, in practice, has to be checked each time an operator introduces a new product on the market.

IOs related to the obligation to use organic seeds whenever available, i.e. operating the seed database, granting of derogations for non-organic seeds (more than 150.000 derogations granted in the EU annually) and related reporting were highlighted as particularly burdensome by several actors. This authorisation and reporting system is proposed to be removed under options 2, 2.A, 3, 3.A and 3.B.

Details regarding the assessment of administrative costs, including a description of the methodology used and the results obtained is included in Annex 16. It has not been possible to monetarise the administrative costs and the expected savings under the preferred option, because of the large number of IOs involved and incomplete data.

– **Option 1 and 1A**

These policy options do not entail savings in terms of reduction of administrative costs. It is estimated that the level of costs would remain the same.

– **Option 2 and 2A**

Important administrative savings are expected through a reduction of 34 IOs. This is due to the fact that the new proposed legislation and production rules would require less record keeping and reporting and because of the ending of a number of derogations and exceptions which are possible under the present legislation.

– **Option 3, 3A and 3B**

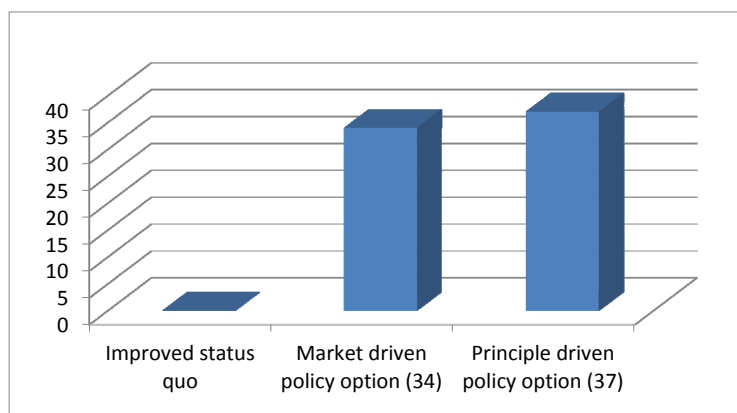
These options are the most favourable in terms of reduction of number of IOs: 37 IOs would be removed. The reduction is mostly achieved by putting an end to various derogations and exceptions which are possible under the present legislation.

A cautious approach has been taken as regard the removal of the mandatory annual inspection. The main objective of the implementation of the risk-based control system is to increase the control frequency on risk-operators; therefore it has been considered that it will entail no savings for the national administrations and CBs.

Option 3.A includes the introduction of an environmental management system which will create an additional administrative burden on processors and traders, since it will be based on an ad-hoc certification system. As mentioned in the impact analysis, this will be

compensated by the increased efficiency and the energy savings, and reduction in burden after the implementation of the system.

Graph 5.2.2.2: Number of IOs removed under the three main policy options



5.3. Conclusions on topics on which the Council had asked a report to the Commission

It can be concluded the following:

- a) On the scope of the Regulation, there would be no EU added value in including organic food prepared by caterers,
- b) The provisions on GMOs should be kept unchanged, since they correspond to a balance between benefits and costs. In particular, a specific tolerance threshold does not appear realistic in view of the costs of analysis. The details are provided in Annex 6.
- c) Issues relating to the functioning of the internal market have been identified:
 - absence of harmonised approach in case of presence of non-authorized substance residues in organic products: it is addressed in all options,
 - use of exceptions to the rules by MS; it is addressed in options 2, 2A, 3, 3A and 3B,
 - same non-compliances leading to different actions in different MS. It is addressed in options 3, 3A and 3B.

6. COMPARING THE OPTIONS – PREFERRED OPTION

The three policy options have been assessed:

- (1) against their potential to achieve the specific objectives and the operational objectives of the review. The results are presented in table 6.1.
- (2) in terms of effectiveness, efficiency and coherence with over-arching objectives. The results are presented in table 6.2.

The **specific policy objectives** are better ensured through option 3.B or 3.A, followed by 3, 2.A and 2, because:

- more **obstacles to the development of organic farming** in the EU are removed with options 3.A and 3.B, thanks to clearer production rules, the removal of exceptions to the rules which lead to the development of organic inputs and to the implementation of the action plan. In addition, option 3.B addresses the case of small producers. However, options 3, 3.A or 3.B could lead some producers to leave the sector at the beginning of the period because of the end of exceptions to the rules,
- **fair competition and the functioning of the internal market** are slightly improved in option 1, notably because it tackles the issue of presence of non-authorised substances. Option 2 goes further, because the exceptions are integrated in the production rules, thus providing a level-playing field among the EU. Option 3 performs better thanks to provisions to harmonise the cases of non-compliances which lead products to lose their organic status and to the move from equivalence to compliance for CBs in third countries, which improves the level-playing field with producers in third countries,
- **consumer confidence** is better addressed in options 3, 3.A and 3.B by addressing several societal concerns and improving the production rules, the control system and the import regime. Consumer confidence is improved to a lower extent in option 2, while 2.A is interesting with the systematic tests for pesticide residues.

The **operational objectives** are better achieved through option 3.B followed by 3.A, 3, 2.A and 2, because:

- In options 2, 2.A, 3, 3.A, 3.B, the removal of exceptions and the reduction in the MS decision level leads to clearer rules, which can be drafted in a single and stand-alone document,
- The implementation of a risk-based control system is better achieved in option 3, 3.A and 3.B, with the removal of the mandatory annual inspection,
- The harmonisation of the approach in case of presence of non-authorised substance residues is addressed equally in all options. Option 2.A performs better with systematic samples and analysis,
- The administrative requirements are simplified in options 2, 2.A, 3, 3.A and 3.B with the end of exceptions to the rules; option 3.B addresses the specific needs of small producers with group certification,
- The single and reliable CB import regime is obtained in options 3, 3.A and 3.B thanks to the move to compliance,
- Options 3, 3.A and 3.B allow a more balanced trade regime thanks to the specific export policy; thanks to stricter rules, the EU will be able to negotiate better with third countries; option 3.B with group certification fits better with a compliance system, since group certification is widely used in third countries,
- The clarification of labelling rules is equally addressed in all options,

- Consideration of societal concerns is not improved in options 1, 1.a and 2, but in 2.B, 3, 3.A and 3.B,
- The transparency and information on the sector are better ensured in options 2, 2.A, 3, 3.A and 3.B with the implementation of action plans,

Table 6.1: summary table – comparison of options in terms of achieving the objectives of the review

| | Options | 1 | 1.A | 2 | 2.A | 3 | 3.A | 3.B |
|----------------------------|---|----|-----|----|-----|-----|-----|-----|
| Specific policy objectives | to remove obstacles to the development of organic production in the EU | 0 | 0 | + | + | ++ | ++ | +++ |
| | to improve the legislation in order to guarantee fair competition for producers and to improve the functioning of the internal market | + | + | ++ | ++ | +++ | +++ | +++ |
| | to maintain or to improve consumer confidence in organic products | + | + | ++ | +++ | +++ | +++ | +++ |
| Operational objectives | to define clear and unambiguous production rules | 0 | 0 | + | + | + | + | + |
| | to implement a risk-based control system | - | 0 | 0 | 0 | ++ | ++ | ++ |
| | to harmonise the approach in case of presence of non-authorised substance residues in organic products | + | + | + | +++ | + | + | + |
| | to simplify the administrative requirements in particular for small producers in the EU | 0 | 0 | + | + | + | + | +++ |
| | to implement a single and reliable system of recognition of control bodies in third countries | 0 | 0 | 0 | 0 | + | + | ++ |
| | to establish a balanced trade regime | 0 | 0 | 0 | 0 | + | + | + |
| | to simplify labelling rules | + | + | + | + | + | + | + |
| | to integrate evolving societal concerns | -- | -- | 0 | ++ | ++ | +++ | ++ |
| | to improve transparency and information on the sector and on organic trade | + | + | ++ | ++ | ++ | ++ | ++ |

Table 6.2: summary table – comparison of options in terms of effectiveness, efficiency and coherence with overarching EU objectives

| | Effectiveness | Efficiency | Coherence with EU objectives |
|-------------------|---|--|---|
| Option 1 | Most of the obstacles to the development of organic production remain. Functioning of single market slightly improved. Level playing field for producers not achieved. Consumer confidence improved but short term only. | Administrative burden for national administrations and operators due to the system of exceptions remains. Efficiency of control system not optimized (annual inspections). High resources needed for CB equivalence regime. | Coherence with general CAP objectives good but not improved in this option. Limited simplification. Evolving societal concerns (animal welfare, etc). not reflected. |
| Option 1.A | Like option 1, with higher positive effect on consumer confidence. | Retailers have to comply with administrative requirements to be covered by the control system. | Like option 1. |
| Option 2 | Few obstacles to the development of organic production removed. Improved fair competition with the integration of possible exceptions as permanent rules. However possible unfair competition with imported products remain. Consumer confidence likely to erode. | Decrease in the costs of inputs. Lighter administrative burden for national administrations and operators thanks to the integration of possible exceptions in the rules. Efficiency of control system not optimized (annual inspections). High resources needed for CB equivalence regime. | Coherence with general CAP objectives improved, notably as far as market-orientation is concerned. Important simplification effect. Societal concerns not deeply addressed. |
| Option 2.A | Like option 2, but consumer confidence improved thanks to systematic tests on organic products. | Costly analysis required to the operators. Test analysis and litigious cases increase the administrative burden on CBs and national administrations. | Like option 2, with the main consumer concern (no pesticides in organic products) extensively addressed. |
| Option 3 | Many obstacles to the development of organic production removed. Improved fair competition because no more exceptions to the rules and imported products have to comply with EU rules. Consumer confidence improved thanks to stricter rules. | Some farms have to leave the sector or to invest to adapt. Increase in costs of inputs at the beginning of the period. Less administrative burden on administrations and operators, because exceptions are removed. Control system fully risk-based becomes more efficient. Compliance system for CBs entails less administrative burden. Need to re-assess existing equivalence arrangements. | Coherent with CAP objectives improved notably in terms of sustainable management of natural resources. Many societal concerns addressed. Important simplification effect. |
| Option 3.A | Like option 3, with consumer confidence better improved because the environmental impacts of the whole organic food chain are taken into account. | Like option 3, but with additional administrative requirements on processors and traders to run an environmental management system . | Like option 3. Best option for the sustainable management of natural resources. |
| Option 3.B | Like option 3, with additional obstacles to the development of organic production in the EU removed. | Like option 3, with less administrative burden on small-scale producers. | Like option 3. In addition, group certification might participate to a more balanced territorial development. |

In view of the result of the comparison of options, the preferred option is option 3, including measures proposed in option 1 and in sub-options 1.A, 3.A and 3. B.

7. MONITORING AND EVALUATION

The Commission will monitor the development of organic production in the EU through data collected by Eurostat (see paragraph 2.5.2.1) in the EU. MS are required to provide the Commission annually with the necessary information. The main result indicators in the Common Monitoring and Evaluation Framework of the CAP are:

- Share of organic area in total UAA,
- Share of organic livestock in total livestock.

And the main output indicators are:

- Organic land area (in conversion and fully converted),
- Number of certified organic operators.

The following complementary indicators will be monitored within the context of this Regulation:

- Livestock (number of organic animals and products of animal origin),
- Crop production and processing (number of operators and value/volume of production by type of economic activity),
- Number of exceptions used and number of exceptions removed,
- Knowledge of, and confidence in the Union organic logo (Eurobarometer survey).

As soon as electronic certification for imported products will be operational, the Commission will also be able to monitor the evolution of imports of organic products. This will allow the evaluation of the impact of the new legislation on countries beneficiaries of EU-cooperation.

The external evaluation has underlined that "the availability of comparable data on costs of production or intra-EU trade, which would be required to assess the quantitative impact of various rules on potential distortion of competition, is very limited" and has recommended "to explore possibilities to establish a monitoring system of the national implementation of the Regulation". It further recommended to take a consistent EU-wide approach in the definition, collection and publication of market data (including costs of production) for the organic sector. Knowing the difficulties to collect data on organic production in the EU, it would appear disproportionate to require the collection of public market data. However, the new European research project "OrganicDataNetwork" started in January 2012 is expected to be a significant step in view of improving market knowledge. The project aims to increase the transparency of the European organic food market through better availability of market information about the sector, thus meeting the needs of policy makers and actors involved in organic markets. The partnership will act as coordinating centre between stakeholders, and will result in a proposal for the establishment of a permanent network to achieve collaboration on statistical issues regarding organic market data.