

# Is there a need for a regulatory framework?

## *Do regulatory frameworks help a country's organic industry at its infancy?*

*Frequently government officials from a developing or Eastern European country, as well as the personnel working in the emerging organic sector and development agencies, express the opinion that there is an urgent need to regulate the organic sector. There seems to be the impression that just because the EU has an organic regulation everybody has to have one.*

It is common to hear the opinion that a country's organic sector should be regulated. This is a typical attitude of government officials from a developing or Eastern European country, as well as the emerging organic sector and, in particular, development agencies. The impression is that as there is an organic regulation in the EU, everybody else should have one.

Three main reasons are given for why mandatory regulations are thought to be the right policy for developing the organic sector:

- Access to export markets
- Development of the local market
- Giving organic agriculture a more respectable and credible image

### **Access to export markets**

The EU, and soon Japan and the USA as well, have implemented systems for import approval of organic products. As these are based on mandatory governmental regulations it can be assumed that the easiest way for an exporting country to get access to these markets is to implement similar systems. As the practical implementation of the US and Japanese regulations are still not clear the focus here will be on the EU.

There are a number of pathways

for organic products to gain acceptance to the EU market. The option relevant in regard to regulations is where the exporting country can be placed on the EU third country list (Article 11.1 in the regulation EEC 2092/91). In order to be placed on that list a certain level of government intervention in the sector is necessary, i.e. some kind of regulation is required. In some cases these regulations have been implemented for exports only, leaving organic claims unregulated in the domestic market. Australia and Argentina are two such countries, although Argentina has now installed a regulation for the domestic market. At present only six countries, Argentina, Australia, Israel, Switzerland, Hungary and the Czech Republic, have achieved third country status. All except the Czech Republic and Switzerland, were in the first round of approvals.

Many producers and governments have experienced the difficulties of achieving a place on the list. Neither the procedures for getting such approval nor the criteria for judging

equivalency are published or are otherwise available. There is no guarantee of being accepted by the EU just because a regulatory system is in place. It can also take a long time; for instance, it took the Czech Republic (which at the time of application to the EU already had a substantial organic sector) six to seven years to get approval.

Today, ten years after the introduction of the EU regulation, approximately 80% of imports access the EU market through a derogation (Article 11.6 in the regulation EEC 2092/91). The approval of imports under the derogation is made by individual EU Member States. It is a complicated procedure and there is insufficient space here to go into the details of how it is implemented. Suffice to say, a regulation in the country of export is not a pre-requisite for acceptance. In fact, the presence or absence of a regulation is not relevant; under the derogation, the focus is on the reliability of the certification agencies operating in the territory. The government of the export country may help

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by vouching for their reliability.

Both Japan and the USA are introducing options in their systems for import approval that is based on mutual recognition at the certification agency level. Thus, here too it is the credibility of the individual certification agents that is the key.

To conclude, it may be a reasonable approach for a government in a developing country to introduce a regulation as a tool for assisting their organic producers access export markets. However, it is very resource consuming and any real need is not clear; in any case, it is not a short-term solution. Finally, there is no need to make a mandatory regulation if the aim is to support the export sector; it is sufficient to implement a government-supervised system for export marketing of organics.

## Development of local markets

There is a common belief that consumers will not develop a trust in organic products unless their government has set standards and a mandatory system of certification. However, there is little empirical evidence for this assumption. First, it is important to realise that the US market for organic products was valued at US\$7 billion before the US federal regulation came in force in 2001. There are a number of US state regulations in place, some of which have been in place since the 1980s, but only a minority of the individual states have had a regulation until now. The same is true in the EU. EU countries had developed a substantial organic market by the early 1990s, at a time when only Denmark and France had national regulations.

As it is impossible to compare the development of the same country with or without a regulation, it is necessary to look at a number of countries to see

## Comment on the figures

These statistics are based on the development of the organically farmed land. It would be more relevant to study market data, but reliable market data are not available for the period (reliable market data are hardly available even today). A further complication is that the rather generous subsidies in some countries have meant a rather large number of organic farmers do not produce for the market at all. For example, in Italy it is understood that only 30% of the organic producers actually sell their produce as organic. The proportion of farmers that are not selling their products as organic is certainly higher than before the introduction of regulations and support programmes. The statistics are also undermined by the fact

that some countries, such as Sweden and Denmark, had support programmes before having the EU regulation in place. While others, such as Germany and Austria, introduced support programmes at the same time as the regulation. In addition, Finland, Sweden and Austria became EU members in 1995, and thus the EU regulation was introduced later in these countries.

One may also suspect that some of the figures from before the introduction could have been 'less organic' or fraudulent or even just exaggerated. One can also assume that the 107% growth rate, which occurred before the regulation was implemented, would in any case decline as such a growth rate is quite impossible to maintain.

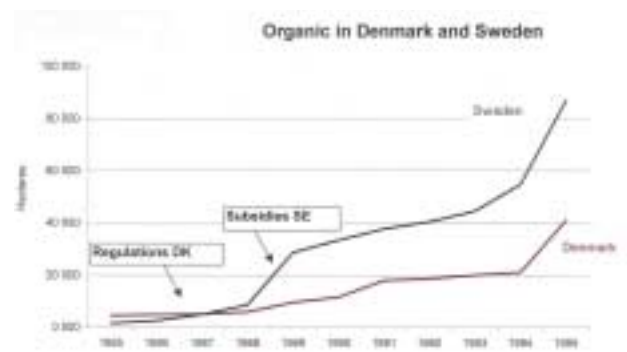
if there was any specific break in trend when a regulation was introduced. In the EU it is difficult to separate the effects of the mandatory organic regulation and the subsidies that were introduced in 1994, or a little earlier in some countries. Looking at European Union averages the growth in organic farming in the periods between 1989-1991 (when there was no regulation), 1992-1994 (just after the EU regulation was implemented), and 1995-1997 (when there were ample subsidies allocated to organic farming) were as follows (see box above):

1989-1991	107%
1992-1994	60%
1995-1997	70%

The weakness of the data means it is difficult to draw any far-reaching

conclusion, but clearly there is little support for the opinion that on an EU-wide level the introduction of the regulation dramatically changed the market conditions.

One can extend the analysis to a country level. Take Sweden and Denmark, both current leaders in the organic market. These two countries managed to develop the organic sector early, Denmark with a regulation introduced in 1987 and Sweden without any regulation until 1995, when it be-



came a member of the European Union. During the four-year period after the regulation was introduced (1987-1991) organic production grew by 250% in Denmark. At the same time organic production in Sweden, where there was no regulation, grew by a remarkable 675% (see graph overpage). It should be noted that a one-off support for organic farming, introduced in Sweden for the 1989 season, resulted in an increase of 230% in one year.

In France a national regulation was introduced in 1986, and from the time of its introduction to 1992 the growth was 70%. In Italy, a country without a regulation, the growth of organic farming was 450% during the same period.

A country analysis also gives little support for the notion that the introduction of a mandatory regulation improves market development.

Even without a national organic regulation there are several regulatory options that can be used to protect consumers and organic producers from false marketing claims. Most countries already have regulations regarding truthful labelling and prevention of consumer deception, and one option is to apply such rules to organic claims. There are internationally recognised standards, CODEX and IFOAM basic standards. It would be quite simple to stipulate that any product sold as 'organic', has to be produced according to one of these. This could be done either as an amendment to an existing regulation or as instructions to the supervising authority. Another option is to use a regulation to back an existing voluntary national standard.

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### **Giving organic agriculture a more respectable image**

In almost all cases the organic sector's image will be boosted by a governmental organic regulation. It gives organic agriculture respectability within the agricultural sector. However, if this is the main purpose of a regulation, there may be a number of other strategies a government could also pursue to better effect, such as directing research and extension service to organic agriculture, or to include organic agriculture in the national plans for agriculture *etc.* If a government endorses or promotes existing or emerging private sector certification agencies that also would add to their credibility.

### **Bottom up instead of top promoted**

In a number of countries the government entered the regulation path many years ago but for various reasons such as lack of priority, lack of resources or simply due to conflicts, has not implemented the system. Frequently, these pending regulations do more harm than good, because the local certification bodies are unwilling to finalise their structures or working procedures until they know what will be required by the regulation. By waiting for the government regulation, they lose alternative opportunities such as IFOAM Accreditation, making partnerships with foreign certification agents *etc.* and in particular lose their own initiative.

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between a government's role as regulator and its responsibility as provider of services and infrastructure. It may be the case that the private sector and civil society is too weak to actually organise certification or to develop local standards. In such countries there may be a case for the government taking responsibility for some of these other services.

Government has an important role to play in the development of the organic sector. However, where resources are limited it is a better use of government resources to support the sector rather than regulate it. The best strategy for fostering the early development of a county's organic sector is nurturing its foundations. Important steps include:

- Organise the organic producer
- Develop the extension service
- Develop local standards
- Set up a certification organisation
- Initiate research in organic agriculture
- Remove disincentives for organic production (subsidies for conventional production *etc.*)

These steps should be in place before a government starts to consider a regulation. Only once the sector has reached a certain level of development, is there a need for dialogue between the government and the sector regarding a possible – voluntary or mandatory – regulation. But any discourse should be based on a sound assessment of the actual problems to be solved and with an open mind to the various options that are available.

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