ORGANIC PRODUCTION
AND THE LAW

Intersessional Meeting of the Intergovernmental Group on Tea
Rome, 5-6 May 2014

Carmen Bullón Caro
FAO Legal Office
Summary

1. The Development Law Service (LEGN)
2. Regulatory frameworks for organic production: the role of legislation
3. Elements of organic production legislation
4. Role of private parties in organic production
FAO Development Law Service:

Legal specialists providing assistance to Member Countries upon request on improving their legal frameworks on natural resources (forests, water, land, plant and animal health, wildlife, fisheries, food)

• advice on legislative reforms
• legal information (www.faolex.fao.org)
• legal research (http://www.fao.org/Legal/public.htm)
How does LEGN work?

- Each country requires advice tailored to its circumstances
- Countries can learn a great deal from each other
- National law must reflect international obligations
- Good law-making requires a multidisciplinary approach
- Law reform should be a participatory process
Legal Publications
FAOLEX is a comprehensive and up-to-date legislative database, one of the world's largest electronic collection of national laws and regulations on food, agriculture and renewable natural resources.

Users of FAOLEX have direct access to the abstracts and indexing information about each text, as well as to the full text of most legislation contained in the database.

To download records use "Advanced search"

For information on recent legislation see Latest entries

http://faolex.fao.org/faolex/index.htm
Regulatory frameworks for organic production
Preliminary considerations

• **What is organic?**

**Definition**

• Organic agriculture is a holistic *production management system* which promotes and enhances agroecosystem health, including biodiversity, biological cycles, and soil biological activity. It emphasizes the use of management practices in preference to the use of off-farm inputs, taking into account that regional conditions require locally adapted systems.

This is accomplished by using, where possible, cultural, biological and mechanical methods, as opposed to using synthetic materials, to fulfil any specific function within the system.

**Source**  
Guidelines for the Production, Processing, Marketing and Labelling of Organically Produced Foods, Codex Alimentarius Commission, CAC, FAO, 2007  
([http://www.codexalimentarius.net/download/standards/354/CXG_026e.pdf](http://www.codexalimentarius.net/download/standards/354/CXG_026e.pdf))
Elements of a Regulatory Framework

Organic production system: combination of standards and procedures to serve for the production, certification, marketing and trade of organic products

- Organic production policy/strategy
- Governance (public/private)
- Law- Regulations
- Organic Standards
- Registry of Organic Producers
- Certification system: authorization to certify, organic certification program
- Trade mechanisms: import/export permits, equivalence
- Market surveillance, market information
International regulatory frameworks

• International agreements
  – WTO Agreements (technical regulations)

• Harmonization of international reference standards:
  – Public (Codex standards) / Private (IFOAM, ISO)
  – Production standards/Conformity assessment mechanisms

• Regional/national target markets
What *may* happen if there is no legal framework?

- Market is unregulated or rely on labeling provisions
  - weak legal protection for consumers, producers and certification bodies
  - certification focuses on foreign markets and is mainly done by foreign certification bodies
    - limited return to local operators
    - difficulties to control fraudulent certification
  - no legal enforcement
  - no national authority responsible for coordinating all the matters related to implementation
- Smallholders and family farmers (producers and processors) have limited access to markets
Why countries approve organic legislation?

• Promote environmental-related public goods:
  – sustainable and low-risk production (IPM)
  – Reduced use of chemical inputs, environmental and social friendly production processes

• Promote agricultural production-related public goods:
  – smallholders production and family farming
  – better access to (qualified) foreign markets
  – healthy food

• Consumers’ protection against fraud
  misleading-unfair advertisement-labeling

• Regulate the access to certification services, to
  – Protect national operators and the market from fraudulent certification
  – Promote recognition in foreign markets

• Consumers’ information (informed choices)
Elements of organic production legislation
National Legislation

- Defines roles and responsibilities and establishes the organic institutional framework
- Regulate (prohibit) the trade of products labelled as organic which are not in compliance with the standards
- Defines how organic standards should be approved and updated
- Regulates organic certification services and organic certification systems
- Serves to regulate import and export of organic products
- May establish preferential conditions that foster organic production (in view of the public goods)
Elements of a National Law

1) Scope
2) Principles for interpretation
3) Institutional Framework (Governance)
4) Organic operators
5) Registries (operators, CB)
6) Production rules
   ▪ Plant, Animal, Processed products, Organic Production
   ▪ Inputs
   ▪ Conversion
7) Certification, accreditation
8) Labeling, claims, Logo
9) Import, export, equivalence
10) Enforcement
1) Scope: what to regulate

- Agricultural products and livestocks, fisheries
- Food/feed/non food (fibres)
- Non-wood forest products (collection)
- Production, handling, putting on the market
2) Institutional framework

Challenges of the Organic governance

- Organic standards are process-related (and not product related)
- Different Ministries and authorities will be involved in organic production
  - Agriculture (primary production)
  - Standard setting (organic standards, labelling)
  - Industry (processed agricultural products, labelling)
  - Market surveillance (local authorities?)
  - Trade (equivalence recognition, import/export certification)
- Organic legislation should ensure appropriate public-private collaboration and support the development of the private sector
3) Substantive elements of the organic system

i. Approval and update of organic production standards, including:
   – Agricultural and farming standards
   – Permitted inputs
   – Packaging, labelling, advertising

ii. Organic producers: obligation to enroll in a certification program. Organic producers’ associations
3) Substantive elements of the organic system (2)

iii. Certification

Inspection/Certification system

- Public Inspection/certification bodies (some EU MS, some US states) or
- Private certification bodies approved by government
- Group certification?
3) Substantive elements of the organic system (3)

(iv) Labelling
- Concept of organic (% product)
- Coherent with legislation on labelling
- Logo. Voluntary/compulsory
- Identification of producer - CB
- Traceability

(v) Packaging, advertising
4) Trade

i. Certification of third States (country of origin)

ii. Conservation of the conditions of the product (exceptions for certain treatments on arrival)

iii. Auditing rights (onsite inspections)

iv. Labelling requirements

v. Recognition of equivalence
5) Public-private collaboration

• Co-regulation/self-regulation
  – International
    • Public –private organizations
    • Public-private processes of standard-setting
    • Recognition/references to private standards into national-international legislation

• Market enforcement (access to specific traders/markets)/ public enforcement / subsidies-promotion
Legal situation

- References to “organic” were used in the labeling of a variety of goods
- Local and foreign certification companies were selling farmers organic certification services with no authorization
- The country had standards on labeling and legislation on fraud and trade licenses. The number of inspectors for consumer protection activities was limited and concentrated
- The General Centre for Agricultural Scientific Research (GCSAR) at Ministry of Agriculture had the human capacity to set up an organic production system. There was no lawyer at the GCSAR
Elements of the GCP

- Potential for organic production. Target: EU market
- The request from the country included assistance to set up:
  - An organic production policy
  - An organic production legal framework
    - Law on Organic production
      - 3 implementing regulations
    - Organic standards
  - Organic producers’ associations
    - technical/legal
- Capacity building (2nd phase)
Elements of the legal component

1) Basic training on organic production legislation
2) Establishment of a legal working group
3) Legal drafting (based on the work of the group)
4) Identification and drafting of the implementing regulations
Law

Regulation 1
Institutional Framework

Regulation 2
Rules of Organic Production (Syrian Organic Standards)
List of Authorized Substances

Regulation 3
Authorization of Certification Bodies
Minimum Inspection Requirements
R1. Regulation on the Institutional Framework
R2 Regulation establishing the Rules for Organic Production and the list of authorised substances
R3 Regulation on the Authorization of Certification Bodies and Minimum Inspection Requirements
Thank you

Carmen Bullón Caro
Development Law Service
FAO Legal Office
Carmen.Bullon@fao.org