



**EUROPEAN COMMISSION**  
HEALTH AND CONSUMER PROTECTION DIRECTORATE-GENERAL  
Directorate D - Food and Veterinary Office

DG(SANCO)/1101/99 – MR Final

**REPORT**  
on a mission carried out in  
**GERMANY**  
from 11 to 15 October 1999  
in the field of

**APPLICATION OF COUNCIL REGULATION (EEC) 2092/91  
ON ORGANIC FARMING IN GERMANY**

*Please note that certain comments from the German authorities have been included in the text of the report in bold, italic type.*

**Table of contents**

1 MISSION DETAILS.....3

    1.1 Participants.....3

    1.2 Meetings and visits .....3

2 SCOPE AND OBJECTIVES OF THE MISSION.....3

3 LEGAL FRAMEWORK .....4

4 BACKGROUND .....4

5 MAIN FINDINGS .....4

    5.1 General information on organic farming in Germany.....4

    5.2 Inspection system put in place by Germany.....4

        5.2.1 Implementation of Council Regulation (EEC) 2092/91 .....4

        5.2.2 Competent authorities .....5

        5.2.3 Organisation of the inspection system .....6

        5.2.4 Approved inspection bodies.....8

        5.2.5 Enforcement measures .....9

        5.2.6 General measures to prevent fraud on the market.....9

6 THE APPLICATION OF ARTICLE 11.6 IN GERMANY.....10

    6.1 The decision making process to grant import authorisations.....10

    6.2 Control procedures in place for imports .....12

    6.3 Exchange of views as to the application of Article 11.6 in Germany.....12

7 CONCLUSIONS.....14

8 RECOMMENDATIONS.....15

    8.1 Recommendations to Germany.....15

    8.2 Recommendations to the Commission .....15

## 1 MISSION DETAILS

### 1.1 Participants

Two inspectors from the Health and Consumer Protection DG, Food and Veterinary Office.

### 1.2 Meetings and visits

Federal Ministry of Food, Agriculture and Forestry, Bonn  
(Bundesministerium für Ernährung, Landwirtschaft and Forsten, BLF)

Ministry of Environment, Regional Planning and Agriculture of North Rhine-Westphalia  
(Nordrhein-Westphälisches Ministerium für Umwelt, Raumordnung und Landwirtschaft –MURL)

Office for food economy and hunting of North Rhine-Westphalia  
(Landesamt für Ernährungswirtschaft und Jagd - LEJ)

Inspection body

Organic production operators in North Rhine-Westphalia

- Two importers/processors of organic fruit, vegetables, *cereals and dry products*
- Wholesaler of organic products
- Organic farm: arable products and vegetables, farm shop

Opening and closing meetings were held with officials of the Ministry of Environment, Regional Planning and Agriculture of North Rhine-Westphalia, the Office for food economy and hunting of North Rhine-Westphalia and the Federal Ministry of Agriculture.

## 2 SCOPE AND OBJECTIVES OF THE MISSION

The scope of this technical on-the-spot inspection mission was the production rules and inspection system governing organic farming in Germany.

The objective of the mission was primarily to obtain a clear picture of the way in which Germany applies Article 11.6 of Council Regulation (EEC) No 2092/91. The mission included an exchange of views concerning the competent authority's supervision of compliance by inspection bodies in third countries with the requirements of the EN 45011 standard.

The second objective of the mission was to get an overview of the general application of Council Regulation (EEC) No 2092/91 in Germany.

### 3 LEGAL FRAMEWORK

Council Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs lays down rules on the production and labelling of organically grown products.

Article 11 of this Regulation provides for equivalency arrangements for products imported from third countries. These arrangements are managed either by the European Commission (Article 11.1 - 11.5) or, as is currently the case for the majority of products imported into the Community, by the Member States (Article 11.6). The Regulation states that, before organic products are imported into the European Community, it must have been adequately demonstrated that they were produced in accordance with production standards and inspection arrangements equivalent to those applied to organic production in the EC.

### 4 BACKGROUND

This mission was the fourth in a programme of planned visits to all Member States, which is initially focusing on those with significant import activity under Article 11.6.

### 5 MAIN FINDINGS

#### 5.1 General information on organic farming in Germany

In December 1998, 11 401 operators were registered with the competent German authorities, of which 9 213 were farmers cultivating 416 518 ha, *accounting for 2.4 %* of the total agricultural area. 3 107 operators were processing and **238** operators were importing organic products.

About 64% of all operators in Germany are based in three states ("Länder") : 3 610 in Baden-Württemberg, 2 462 in Bavaria and 1 260 in Hessen. About 62 % of all organically cultivated areas are located in four states : 83 869 ha in Mecklenburg-Western Pomerania, 61 835 ha in Brandenburg, 57 245 ha in Baden-Württemberg and 55 595 ha in Bavaria.

The most important categories of organic products produced in Germany are arable crops, fruit and vegetables, and dairy products. Most organic products are available from specialised retailers. The number of supermarkets offering organic products is slowly increasing.

In North Rhine-Westphalia, the federal state visited by the inspection team, there were 835 operators in 1998, 544 of them farmers. 2/3 of organic produce is sold in farm shops and specialised shops, and 1/3 in conventional shops.

#### 5.2 Inspection system put in place by Germany

##### 5.2.1 Implementation of Council Regulation (EEC) 2092/91

Germany is a federal republic in which governmental responsibilities are distributed by the Constitution between the federal government (Bundesregierung) and the 16 state

governments (Landesregierungen). All matters related to the implementation of Council Regulation (EEC) No 2092/91 are the sole responsibility of the 16 state governments.

The mission looked at implementation of the Regulation in North Rhine-Westphalia only. The mission team had no means of checking implementation in the different states or at federal government level, since the reports that the states send to the federal government are very concise.

Apart from the competent authorities, there are nine long-established associations of organic operators (“Verbände”) which have their own production and processing standards. According to the competent authorities, these standards are at least equivalent to Regulation No 2092/91. Most of them contain additional requirements and also deal with animal production. A large majority of organic farmers are members of an association. These associations have an umbrella organisation, the “Arbeitsgemeinschaft Ökologischer Landbau – AGÖL”, which also issues production standards.

In addition, some inspection bodies produce explanatory documents on the Regulation for operators.

### 5.2.2 *Competent authorities*

Each of the 16 state governments appoint the competent authorities (“zuständige Behörde”, also confusingly called “Kontrollbehörde”) referred to in Article 9 (4) of Council Regulation (EEC) No 2092/91, by means of state organisational acts (Landesorganisationsgesetze der Bundesländer). In every state there is one such competent authority, except in Rhineland-Palatinate and Mecklenburg-Western Pomerania, where the state governments have appointed four and two such competent authorities respectively. In total there are 20 competent authorities within the meaning of Council Regulation (EEC) No 2092/91 throughout Germany.

In the case of North Rhine-Westphalia, the competent authority is the Office for food economy and hunting (“Landesamt für Ernährungswirtschaft und Jagd – LEJ”). The staff responsible for *the implementation of Council Regulation (EEC) No 2092/91* consist of two full-time posts, divided among four persons. The LEJ is supervised with regard to these activities by the state Ministry of Environment, Regional Planning and Agriculture (staff concerned: 0.3).

The 20 competent authorities coordinate their activities through the states' Working Group on Regulation No 2092/91 on organic farming (“Länder-Arbeitsgemeinschaft zur Verordnung (EWG) Nr. 2092/91 über den ökologische Landbau - LÖK”). The LÖK consists of one or more representatives of each state. One representative of the federal government attends as an observer. The representative of North Rhine-Westphalia acts as chairman. The LÖK meets three to four times a year and decides, in most cases with a consensus, on recommended detailed procedures to implement Regulation No 2092/91. Minutes of these meetings are produced and distributed to the competent authorities and the state and federal governments. A summary of the main results (“Teil B”) is sent to the approved inspection bodies for information. The LÖK has also produced guidelines on inspection procedures (“Leitlinien zum Kontrollverfahren”). These do not have any legal status *as such*, but are imposed on the approved inspection bodies by the competent authorities of the states, by making compliance with them a condition for the approval of these bodies.

The federal government, through the Ministry of Food, Agriculture and Forestry (Bundesministerium für Ernährung, Landwirtschaft und Forsten, BML, Bonn) has a communication role and act as an intermediate level between the EC and the states. The staff concerned consists of 1.5 persons.

Each state sends an annual report to the federal government's Agriculture and Nutrition Office (Bundesamt für Landwirtschaft und Ernährung, BLE, Frankfurt), which collects all the information (staff: 2 persons). The annual report of North Rhine-Westphalia to the federal government is concise and gives no insight into the measures carried out for supervision purposes. The federal government sends a very concise annual report to the Commission in accordance with Article 15 of Regulation No 2092/91. This report contains only numbers of operators, inspections and sanctions.

The federal government has the legal option to intervene if a state does not fulfil its legal obligations. However there is no systematic ongoing evaluation to establish whether the states are fulfilling their obligations.

The competent authorities are entitled to grant the following derogations as foreseen in the Regulation :

- (1) Extending or reducing the conversion period (Annex I.1);
- (2) Seeds and seedlings (Article 6.3): derogations are granted by the inspection bodies, following a documented procedure as laid down in North Rhine-Westphalia in a ministerial decree.

### **5.2.3 Organisation of the inspection system**

Germany has set up a system of approved private inspection bodies. Currently there are 22 such bodies, some of which are approved in several states. Each body receives a federal government code number. Also, the name and/or trademark (or 'logo' or 'label') of the inspection body may be shown on products.

Each operator's production plan and practical measures have to be *verified* by the inspection bodies.

The certificate used to prove that an operator fulfils the requirements of Regulation No 2092/91 contains different items depending on the inspection body. The competent authority is suggesting harmonisation, with inclusion of the period of validity and product group.

A wholesaler with minor packaging activities was not included under the inspection system until July 1999. Storage is not considered to come under the scope of the Regulation.

### **Approval and supervision of inspection bodies**

An inspection body must be approved by every state in which it has activities. Detailed criteria for approval are laid down in the LÖK guidelines for inspection procedures . A set of forms to be submitted by an inspection body seeking approval has also been developed. The state in which an inspection body has its headquarters bears primary responsibility for approval and supervision of this inspection body. The states recognise

in principal the approval and supervision by the state with primary responsibility, but may carry out additional supervision activities, seemingly restricted to paper checks.

The inspection body's standard inspection procedure, as defined in Article 9, needs to be approved. Other features include the qualifications of staff, the number of inspections carried out by each inspector (at least 20 per year) and the requirement to have a permanent office in Germany. New inspectors also need to be approved by the competent authority.

Supervision includes verification of compliance with the requirements of EN 45011. A separate checklist, developed by an experienced officer in one state, is used for this.

The format of the documents that the state sends to the inspection body to confirm its approval is different in each state. The approval document sent by North Rhine-Westphalia does not explicitly mention fulfilment of the requirements of EN 45011. However, the approval document sent by another state, which is based on the supervision work of North Rhine-Westphalia, mentions this explicitly. This may cause confusion.

14 private inspection bodies are approved in North Rhine-Westphalia. Three bodies inspect 65% of operators. Two inspection bodies have their headquarters in the state.

In North Rhine-Westphalia supervision (“Begleitung”) is carried out by an official of the external service of the Office for food economy and hunting (Landesamt für Ernährungswirtschaft und Jagd – LEJ). Supervision consists of a compliance audit in the offices of the inspection bodies established in the state (average frequency of one visit a year, lasting 1-2 days) and of some 10 witness audits a year (on a total of 900 operators, representing only 1 % of operators). (The objective is 20). For these visits the official accompanies the inspector from a private inspection body during his inspection. On some of those visits the official is invited by the inspection body. There is no written report to the inspection body about the result of the supervision. Only if documents are missing or recommendations are made does the inspection body receive something in writing from the internal service of the LEJ. The link between the findings of the supervision activities (external service of LEJ) and the recommendations made (by the internal service of LEJ) was not very clear. The external service seems not to be aware of the final recommendations made by the internal service.

The competent authority in one state is not aware of which actions the competent authorities in other states are undertaking in their supervision. There is no systematic planning and coordination of supervision activities between the states. Moreover, there is no overview of all measures carried out to supervise inspection bodies with activities in several states. It is, for example, not always clear to what extent the regional offices of an inspection body are included in the compliance check. The checklists used for supervision are not the same in all states. The results of supervision are only communicated to the other states in a major case of non-compliance.

### ***Labelling***

A number of different references to organic farming are used in Germany. The labels of eight associations (“Verbände”) seem to be the best known to consumers. Apart from that, the wording “certified organically grown” (“kontrolliert biologische Anbau – kbA”) is known as a general reference, as well as trade-marks, the names of some inspection

bodies and the code numbers of the German inspection bodies. The indication provided for by Article 10 of Regulation No 2092/91 is hardly used.

A private company, (Öko-Prüfzeichen GmbH), has recently developed a private, *voluntary* label to identify organic products throughout Germany. Within the next three years the Öko-Prüfzeichen GmbH will introduce this label into the German organic products market with the help of grants from the private and public sectors.

#### **5.2.4 Approved inspection bodies**

Some private inspection bodies originate from operators' associations ("Anbauverbände"), which set them up as separate inspection entities a few years ago. Other private inspection bodies have been set up as independent bodies or companies. Most inspection bodies have full-time staff and some also have part-time freelance inspectors. Twelve inspection bodies are approved in nearly all states. A number of bodies have inspection activities in only a few states. Some also have inspection activities in third countries. There are two umbrella organisations of approved inspection bodies.

*At the request* of the operator, the inspection bodies carry out inspections which also cover the additional associations' requirements. The right to use these associations' private labels is based on these inspections which are not supervised by the competent authorities.

At federal level, there *was* no information available *during the mission* on the number of operators inspected by each inspection body.

Some operators reported tough competition between inspection bodies, which could in their view have a negative influence on the quality and the objectivity of inspection work. The competent authority reported that there is some coordination between inspection bodies through two umbrella organisations and that the authority itself ensures supervision to prevent potential negative effects.

The operators visited by the inspection team seemed to be inspected quite thoroughly. A complete description of the premises was produced. In the case of a farm, the fields visited were indicated in the report, and details of the farm's production scheme were stored in the inspection body's database.

According to the guidelines, unannounced inspection visits must account for at least 5% of the number of operators inspected. In 1998 1 141 unannounced inspections were carried out, which is about 10 % of the number of operators.

The inspection bodies take either no or very few samples for residue analyses. The total number of samples taken in 1998 was 34. During the mission the representative of an inspection body declared not to take samples, even in case the operator concerned raised his immanent suspicion of fraud by a supplier. The representative of the inspection body declared that the inspectors verify the written guarantees on the products supplied, and when this paperwork is found in order, they consider there is no need for sampling.

The inspection body visited by the mission team is a private company. It is mainly involved in inspection activities in organic farming in Germany and a few third countries. It works with both full-time and self-employed part-time inspectors, who follow established procedures laid down in an extensive quality manual and use standard

checklists for their operations. The majority of inspection visits are unannounced; larger companies are inspected 3 to 4 times a year.

As guarantees of its objectivity, the inspection body mentions its financial independence, the fact that inspectors are paid per hour (and not per operator inspected), and the monitoring of inspectors' potential conflicts of interest.

It sends concise quarterly and annual reports, mainly with statistical information, to the competent authorities. The last irregularity it reported to the competent authority dated back to 1993.

### **5.2.5 Enforcement measures**

The states are responsible for enforcement (“Durchführung”). *An* important enforcement tool is the list of sanctions (“Sanktionskatalog”) that can be imposed by the inspection bodies. The competent authorities are responsible for more serious penalties. The competent authority of North Rhine-Westphalia reported a few of these cases, but at least one of them was not mentioned in the annual report to the federal government.

The competent authorities have information on penalties imposed. Five levels of sanctions were identified: written instruction, obligation to keep more records or to give notice, re-inspection, warning, withdrawal of the organic labelling for a batch. In 1998 there were 72 withdrawals of a batch. The inspection body visited did not have a table listing which sanctions are imposed for which infringements.

The competent authority indicated that in its opinion Article 9.9.b of Regulation (EEC) No 2092/91 does not always provide the adequate tools for sanctions. When for instance the inspection body finds that one ingredient in a processed product is not compliant, Article 9.9.b requires the marketing of the product to be prohibited. This is often impossible, because the products have been sold and consumed already. It is also seen as a sanction that is too severe for a minor non-compliance. In such cases the authority would prefer the option of fining the operator.

*In the visited state of North Rhine-Westphalia*, no major fraud cases have been reported. No cases have been reported that have been referred to the criminal court.

The federal government indicated that it notified irregularities to the Member State concerned and to the Commission, according to Article 10a. It was not sure what kind of irregularities should be reported, and how these notifications were followed up by the Member State and by the Commission.

### **5.2.6 General measures to prevent fraud on the market**

Food control inspectors of the states can register infringements of the Regulation and of the Food Act and impose financial penalties. Only where fines are not paid are cases taken to court. No such cases have been reported. Infringements are reported to the competent authorities.

In addition, the food control authorities of the states (“Lebensmittelüberwachung”) monitor food products for pesticide residues. Where pesticide residues are found in organic products, including levels below the MRL but above a certain background level, the food control authorities inform the competent authorities responsible for organic

farming. The general report on pesticide residue monitoring does not mention the organic character of a product sampled.

## **6 THE APPLICATION OF ARTICLE 11.6 IN GERMANY**

### **6.1 The decision making process to grant import authorisations**

The 20 competent authorities in Germany coordinate their decision making processes for granting import authorisations through the states' Working Group on Regulation No 2092/91 on organic farming "Länder-Arbeitsgemeinschaft zur Verordnung (EWG) Nr. 2092/91 über den ökologische Landbau", abbreviated as "LÖK". The LÖK has issued coordinated regulations for the states on the marketing of organic products originating from third countries ("Koordinierende Regelungen der Länder der BRD für die Vermarktung von Erzeugnissen mit Hinweis auf den ökologischen Landbau, die aus Drittländern in die EU eingeführt werden, gemäß Artikel 11 der Verordnung (EWG) Nr 2092/91" – latest version 23.02.99). These regulations do not have any legal status *as such*, but are imposed on importers by the competent authorities.

The importer, or a German inspection body acting on his behalf, sends a request for import authorisation to the relevant competent authority. The importer needs to demonstrate the equivalency of the production rules and inspection measures applied. He also has to demonstrate that the inspection measures are carried out continuously. The competent authority's assessment of equivalency is based mainly on (a) the inspection body's declaration and (b) the third-party supervision of the inspection body.

(a) The inspection body in the third country from which the organic products are imported and in charge of inspecting the exporter must declare that it applies production rules and inspection measures equivalent to Council Regulation (EEC) No 2092/91, including equivalency with the requirements of EN 45011/ISO 65. This declaration has to be renewed annually.

(b) Secondly, the inspection body must be supervised continuously by one of the following third parties: (1) an accreditation body which is a member of European Cooperation for Accreditation-Multilateral Agreement or of International Accreditation Forum-Multilateral Agreement, (2) a competent authority in the third country, or (3) a private, independent third-party evaluator ("Begutachter") accepted as an individual expert by the German authorities for the supervision of a given inspection body in a given third country.

(1) As to the first option, the competent authority was not always completely sure about the competence of these accreditation bodies in organic farming, about the obligation of the accreditor to verify the activities of the inspection body on the spot in the third countries where it had its activities, and about the geographical scope of some accreditations.

(2) The second option was reported to be hardly available. It very recently started to be used for one third country only.

(3) The third option has been available since 1998 and was reported to be the most used. The qualified third-party evaluator must demonstrate his competence and independence to the competent authority. He must demonstrate that he has no

conflict of interest with regard to the inspection body in the third country to be audited and that he does not offer similar services in the third country or region where the inspection body is based. The auditors must have successfully attended a training course on the EN 45011/ISO 65 requirements. The final assessment of the objectivity of third-party evaluators is based mainly on their declarations and on a case-to-case judgement by the competent authority. The evaluator is *accepted* by the competent authority to carry out an evaluation of a certain inspection body and has to report back to the authority. It is the inspection body being evaluated that proposes and pays the evaluator.

The competent authority requires the evaluator to supervise the activities of the inspection body on the spot in at least some of the third countries where the inspection body has its activities.

Evaluators are experienced inspectors of inspection bodies, who prove they have no conflict of interest, or experts who only carry out evaluations. Two associations of evaluators were mentioned : International Organic Accreditation Services (I.O.A.S) and Verein *zur Begutachtung von Prüfstellen* (V.B.P.).

In addition, the competent authorities ask in some cases for the first or last inspection report, especially when there is no previous experience with the inspection body or exporter. When the production rules referred to by the inspection body mention no inputs other than those listed in Annex II of the Regulation, an authorisation is usually granted more easily. Otherwise, a judgement needs to be made and sometimes the issue is discussed with competent authorities in other states.

According to the operators, in the past the granting of authorisations was not fully harmonised between the states. The LÖK has improved harmonisation, but no procedure is foreseen in case of disagreement, which could be a weakness of the system of granting authorisations

The whole process of granting an authorisation takes 1 to 3 weeks if all information is available. *In some states*, authorisations are granted for an unlimited period, in *other* states they are granted for one year. Since 1993 the state of North Rhine-Westphalia has granted 190 import authorisations, of which 125 are still valid. They concern 20 inspection bodies and 37 third countries. Four inspection bodies cover 61 % of imports. The competent authorities declared a number of authorisations have been refused or withdrawn, but no statistics were available on this subject.

The import authorisations granted by the various competent authorities in Germany are stored centrally *since 1993 by the Federal Institute for Agriculture and Nutrition (Bundesanstalt für Landwirtschaft und Ernährung). The central list contains not only expired, but also suspended and withdrawn authorisations. From 1993 to the end of 1999, in total 1 283 import authorisations have been granted.*

Each application for import authorisation is treated in the same way. If the importer has already been authorised in another Member State, he must still submit all the required documentation to the competent authority, which will carry out its own assessment, though the authorisation granted by the other Member State will be taken into account. If another state has already granted an authorisation, *and if the inspection body in the third country and the exporter are sufficiently well known*, the procedure is *partly* easier and

the main check is on the identity of the operator. Decisions on authorisations are conveyed to the federal states, the Member States and the Commission.

The volumes that the importers plan to import are mentioned in the import authorisation document. The importer should report the volumes imported annually, but often fails to do so. The information obtained is not processed and no statistics are available. A compilation of this information would be desirable in order to have an overview of the flow of products and to undertake a risk assessment.

Import certificates are reported never to accompany the products physically. They may arrive a month later, often together with the invoice. A large variety of certificates are used, although there is an LÖK recommendation to use a standardised model. In some cases unsigned import certificates were found.

The main imported products are coffee, tea, fruits, vegetables and dried products.

## **6.2 Control procedures in place for imports**

Inspectors from the inspection body visit importers' premises at least twice a year. They follow the audit trail and check all relevant documents such as shipping documents, bill of lading, labelling, certificates and import authorisations. A rough bought/sold balance is drawn up by checking the accounts. The company's traceability system is verified. Very often only documents are checked.

A short report is produced on the spot and countersigned by the operator, who receives a copy. Later on, the operator receives a more complete report and recommendations.

The importers visited do not warn the inspection bodies, as required by Annex III C. They argue that the Regulation does not require this for each consignment, and that it is impossible anyway for an importer who imports several consignments each day.

## **6.3 Exchange of views as to the application of Article 11.6 in Germany**

The competent authority of North Rhine-Westphalia (LEJ) raised the following aspects regarding evaluation of the current system for granting import authorisations:

- An extension of the list of equivalent countries as defined in Article 11.1 is desirable. The point was made that the procedure under Article 11.6 was only put in place because the Article 11.1 list was empty at the time.
- The quality of the work done by the inspection bodies in the third countries, *with which the competent authority in North Rhine-Westphalia has experience, and as far as authorisations were granted*, is considered to be comparable with the quality of the inspection work done in the Member States.
- Member States have different opinions on their responsibility where the importer is registered in one Member State but the goods enter the Community via another Member State. This may provide scope for potential fraudulent practices. A decision to overcome this difference in opinions must therefore be taken urgently at Community level.

- Co-operation between inspection bodies in different Member States is not satisfactory. Such co-operation is essential, and procedures should be laid down in Annex III C of Regulation No 2092/91.
- Inspection bodies in third-world countries often have difficulty paying for accreditation *in line with EN 45011* or do not have *specialised* public authorities *available* to supervise them. Therefore the third option of a private evaluator is more appropriate.
- The requirements of EN 45011/ISO 65, are seen as a practical development of the principles laid down in Article 9.5 of the Regulation. The effect on inspection bodies was an improvement in their organisation. On the other hand a lot of energy goes into paperwork, and there is a risk of being satisfied with paperwork only. Overall, *all provisions* of Regulation (EEC) No 2092/91 are *to be* considered *in a balanced way, not just concentrating on* the requirements of EN 45011/ISO 65, especially in third countries. The choice of EN 45011/ISO 65 as a reference was reported to be criticised, because it is a product certification standard, while for organic farming a standard for certification of production methods might be more appropriate.
- The work done by the Member States to assess the third country inspection bodies is duplicated in each Member State. It was therefore suggested that Article 11.1 should be extended by adding a harmonised list of inspection bodies relating to individual third countries, whose activities there would be recognised as equivalent. Harmonised rules could be developed and accreditation bodies or other third-party evaluators could report to the Commission, which could ultimately decide, following a clearer decision process, on inclusion in the list. Apart from harmonisation, the advantage of such a system would be that the central authority dealing with this could develop wider competence than each Member State individually, and the Commission, under Article 11.1, has the competence to organise inspection visits on the spot in the third country if need be. Such a system would boost confidence among consumers and reduce the use of Article 11.6.

The inspection body visited raised the following elements regarding the evaluation of the current system for imports:

- The Regulation does not provide enough tools for the inspection body to block products. When it blocks products, the operator may cancel the inspection contract.
- The import authorisation procedures of Article 11.6 were designed for single projects. The system is not adapted to regulate regular trade flows of organic products from third countries.
- The different practices in supervising compliance with EN 45011/ISO 65 may cause unfair competition between inspection bodies.

Operators are concerned about tough competition between inspection bodies in third countries, including competition based on the price for inspection.

Operators dealing with imports seek further harmonisation of import procedures, to obtain a transparent market.

## 7 CONCLUSIONS

- (1) Germany has established an inspection system for organic farming with 20 competent authorities and 22 approved private inspection bodies.
- (2) Supervision of the inspection bodies that have activities all over Germany is not coordinated between the competent authorities of the states in a systematic and adequate way. Moreover coordination is based on a voluntary approach only.
- (3) Supervision of the inspection bodies seems to be carried out by the authorities of North Rhine-Westphalia in an acceptable, but not fully developed way. There is no clear link between supervision findings and the recommendations made to the inspection bodies.
- (4) The inspection bodies take only a very limited number of samples for the residue analyses foreseen in Annex III of Regulation (EEC) No 2092/91.
- (5) The storage of organic products is not always inspected, since the authorities consider that there is no explicit legal basis for this.
- (6) The German authorities report irregularities to the Member States concerned and the European Commission, as foreseen in Article 10a of EC Regulation 2092/91. However they are not sure which irregularities have to be reported and have received no information on the follow-up to these irregularities by the Member States and the Commission.
- (7) The tough competition between private inspection bodies in Germany may have potential negative effects on the quality and objectivity of the inspection work of the inspection bodies.
- (8) There is no overview of the volumes of organic products imported into Germany.
- (9) The cooperation between inspection bodies in different Member States, as foreseen in Annex III C of the Regulation, is not satisfactory.
- (10) Import certificates do not accompany the goods. They have different formats, contain different information, and are not always properly verified by the operators and inspection bodies.
- (11) A requirement of Annex III C3 is not respected: importers do not inform the inspection body of each import consignment.
- (12) Member States have different opinions on their responsibility where the importer is registered in one Member State but the goods enter the Community via another Member State. This may provide scope for potential fraudulent practices.
- (13) There is a need for further harmonisation of import procedures.

## **8 RECOMMENDATIONS**

### **8.1 Recommendations to Germany**

- (1) The German authorities should reinforce co-ordination of the supervision of inspection bodies between the competent authorities.
- (2) The competent authority of North Rhine-Westphalia should extend supervision of inspection bodies and establish a clear link between the supervision findings and the recommendations made to the inspection bodies.
- (3) The German authorities should ask the inspection bodies to take samples for residue analysis where there is any suspicion of the use of unauthorised products, as foreseen in Annex III of Council Regulation No 2092/91.
- (4) The German authorities should pay special attention to the potential negative effect of the tough competition between private inspection bodies in Germany and in third countries.
- (5) The German authorities should request information on the volumes imported.
- (6) The German authorities should ask the inspection bodies to verify all documents related to imports more thoroughly and also make sure that physical checks on imported goods are carried out wherever they are stored.
- (7) The German authorities should make sure that import certificates accompany the goods.
- (8) The German authorities and the inspection bodies should make sure that the requirements of Annex III C are respected.

### **8.2 Recommendations to the Commission**

- (1) To consider clarifying the meaning of Article 10a of EC Regulation No 2092/91 on the notification of irregularities and to give information on the Commission's follow-up to the irregularities reported.
- (2) To consider extending the list of equivalent countries under Article 11.1 of Council Regulation No 2092/91; to consider adapting Article 11.1 by providing a harmonised Community listing of third-country inspection bodies recognised as equivalent.
- (3) To seek legal advice as to whether storage comes under the scope of the Regulation.
- (4) To consider harmonising the definition of the responsibility of the Member States for goods that enter the Community under Article 11.6.
- (5) To reconsider Annex III C of Regulation No 2092/91 in order to make cooperation between inspection bodies obligatory.

**9 ADDENDUM : GERMAN COMPETENT AUTHORITY RESPONSE TO THE RECOMMENDATIONS IN THE REPORT**

On 14 February 2000 the German Competent authorities forwarded extensive comments to the draft report DG(SANCO)/1101/99 MR Draft (30.11.99). The comments include a preliminary comment on the distribution of tasks between the central federal authority ('Bund') and the federal states ('Länder') in respect of the food industry, agriculture and forestry, as well as a number of detailed comments on the findings, the conclusions and the recommendations in the draft report. As mentioned before, certain comments have been included in the final report in bold/italic. The full text of the German Competent Authority response will be distributed to the Member States and published on the Commissions website with the final report.