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DIRECTORATE-GENERAL XXIV
CONSUMER POLICY AND CONSUMER HEALTH PROTECTION
Food and Veterinary Office
Unit 03 - Food of Animal Origin (3) - Fish and Food of Non-Animal Origin

XXIV/1001/99 – MR Final

MISSION REPORT
on a mission carried out in
THE UNITED KINGDOM
from 18. to 22.01.1999
in the field of

**APPLICATION OF COUNCIL REGULATION 2092/91 ON
ORGANIC FARMING IN THE UNITED KINGDOM**



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.	BACKGROUND	4
4.	MAIN FINDINGS AND CONCLUSIONS.....	4
4.1.	General information on organic farming in the United Kingdom.....	4
4.2.	Inspection system put in place by the United Kingdom.....	4
4.2.1.	Implementation of Council Regulation (EEC) 2092/91	4
4.2.2.	Competent Authority	5
4.2.3.	Set up of the inspection system (Article 9).....	5
4.2.4.	The approved inspection bodies.....	6
4.2.5.	General measures to prevent fraud on the market	7
4.2.6.	Enforcement measures	7
5.	THE APPLICATION OF ARTICLE 11.6 IN THE UNITED KINGDOM.....	7
5.1.	The decision making process to grant import authorisations.....	7
5.2.	Control procedures in place for imports	8
5.3.	Exchange of views as to the supervision exercised by the competent authority on the compliance of the inspection bodies in third countries with the requirements of the EN 45011 standard.....	9
6.	LIST OF SUGGESTIONS.....	11
6.1.	Suggestions to the United Kingdom.....	11
6.2.	Suggestions to the Commission Services.....	11

1. MISSION DETAILS

1.1. Participants

Two inspectors from DG XXIV, Food and Veterinary Office and one official from DG VI for part of the mission.

1.2. Meetings and visits

Ministry of Agriculture, Fisheries and Food (MAFF)

Head of Organic Farming Branch
3 Officials of UKROFS Secretariat

Inspection body 1

Executive Director
International Officer

Inspection body 2

Chairman
Certification Officer

Operators organic production

Wholesaler/producer herbs and spices with import activities
Director
Technical manager
Importer and processor of coffee
Director
Staff member
Importer of tea
Technical manager

An opening and a closing meeting were held with officials of the Ministry of Agriculture, Fisheries and Food.

2. SCOPE AND OBJECTIVES OF THE MISSION

The scope of the mission was primarily to give a clear picture of the way in which the United Kingdom applies Article 11.6 of Council Regulation (EEC) 2092/91. The mission included an exchange of views as to the supervision exercised by the competent authority on the compliance of the inspection bodies in third countries with the requirements of the EN 45011 standard.

The second part of the mission focused on the application of Council Regulation (EEC) No 2092/91 in general in the United Kingdom.

3. BACKGROUND

Council Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs provides for rules for the production and labelling of organically grown products. Article 11 of this Regulation provides for a regime of equivalency for products imported from third countries. This regime is either managed by the European Commission (Article 11.1-5) or, as is currently the case for the majority of products imported into the Community, by the Member States (Article 11.6). The Regulation requires that before organic products are imported into the European Community, it has been adequately demonstrated that the products were produced in accordance with production standards and inspection arrangements equivalent to those applied to organic production in the EC.

This mission was the second in a programme of planned visits to all Member States, which is initially focussing on those Member States having an important import activity under Article 11.6.

4. MAIN FINDINGS AND CONCLUSIONS

4.1. General information on organic farming in the United Kingdom

As of 31 December 1998 1462 organic producers were registered with the UK inspection bodies. 78,833 ha of land was dedicated to organic production, including land in conversion, representing approximately 0.5 % of the total UK agricultural area. 56 % of this area is in England, 37 % in Scotland, 7 % in Wales and 0.2 % in Northern Ireland. 664 processors and 90 importers were registered. 1998 saw continued growth in the sector including increased import activity.

The most important categories of organic products produced in the United Kingdom are dairy products, meat and arable crops.

Organic products are available in most food supermarket retail outlets, as well as in specialised "health food" stores. Sales account for less than 1% of the total UK food sales and non-UK products make up approximately two thirds of the organic market. 75 % of vegetables and fruit are of non-UK origin. The sector has seen strong growth in recent years and the UK authorities are committed to the expansion of organic farming. Specific measures include administrative and statutory support for standards, the organic aid scheme, an organic conversion information service and a research and development programme.

4.2. Inspection system put in place by the United Kingdom

4.2.1. Implementation of Council Regulation (EEC) 2092/91

Statutory Instrument No. 2111 of 1992, The Organic Products Regulations 1992 (as amended) gives effect to the United Kingdom's administration, execution and enforcement of Council Regulation (EEC) 2091/91. The body assisting the Competent Authority, the United Kingdom Register of Organic Food Standards, publishes standards (UKROFS Standards) that refer to the

EC Regulation for arable farming and are used as the daily reference. They also contain standards for animal products and additional guidelines for landscape management, packaging materials and cleaning. Since September 1997 UKROKS Standards prohibit genetically modified organisms as either ingredients or processing aids in organic products in the UK. The UKROFS Standards have no legal status. In addition, most approved inspection bodies have their own production/processing standards that are at least equivalent to UKROFS standards.

4.2.2. Competent Authority

The competent authority is designated as the appropriate Minister, in this case the UK Ministers for Agriculture, Food and Fisheries. The appropriate Minister is assisted in the carrying out of his functions by the independent third party advisory Board of the United Kingdom Register of Organic Food Standards (UKROFS). This Board is not a legal entity and although carrying out the day-to-day implementation and administration of the Statutory Instrument, has no legal status under UK regulations. The UK Agricultural Ministers appoint the Board's Chairman and 11 Members. The Board of UKROFS comprises expertise from producer, retailer, consumer and trading standard interests.

The Board of UKROFS is assisted in its activities by a Secretariat comprised of MAFF civil servants (2 posts). These civil servants are part of the Organic Farming Branch, a part of the Conservation and Rural Development Division (CARD), recently renamed as Rural Division of MAFF. As the main policy making body for organic farming it has another 3 posts.

The Competent Authority is entitled to grant the following exceptions as foreseen in the Regulation :

- (1) Prolonging or reducing the conversion period (Annex I.1) : the inspection bodies have to apply to UKROFS 'Certification Committee' that may grant the exception.
- (2) Seed and seedlings (article 6.3) : the exceptions are granted by the inspection bodies, who have to notify UKROFS

4.2.3. Set up of the inspection system (Article 9)

The UK designated the inspection authority UKROFS (code UK 1) and approved 6 private inspection bodies ("organic sector bodies"), each one indicated with a code : Biodynamic Agricultural Association (UK6), Irish Organic Farmers and Growers Association (UK7), Organic Farmers and Growers (UK2), Organic Food Federation (UK4), Scottish Organic Producers Association (UK3), Soil Association Certification Ltd (UK 5). The name and/or trademark (or 'logo', or 'label') of the inspection body may also be shown on the products. UKROFS' own logo may also be shown. The largest inspection body inspects 76 % of the operators.

The authority responsible for the approval and supervision of the inspection bodies is UKROFS ("Certifying Authority"). For this purpose inspection

bodies have to pay fees and costs to UKROFS. Inspection bodies seeking approval have to apply to the Board of UKROFS, that grants “certificates of registration” to approved bodies. In addition all inspectors need to be approved individually by UKROFS.

External experts carry out the supervision on behalf of UKROFS. Experts of the agriculture advisory service A.D.A.S re-inspect 8 % of the farms (1 day per farm, reporting included). An independent consultant re-inspects some processors. The total re-inspections effort takes up 120 days. The same private consultant audits the inspection system of the inspection body (1 day per body, in total 6 days), including the compliance with EN 45011 criteria. The farms and processors’ reports are sent to UKROFS, who discusses the reports in it’s Certification Committee, composed of representatives of the 6 approved inspection bodies. This Committee reports to the Board of UKROFS at the end of the year. The audit reports on the inspection bodies are discussed in the Board of UKROFS only. The UK Agricultural Ministers are provided with an annual report on the supervision.

The supervision activities showed no major irregularities on compliance with the standards and showed mainly weaknesses in record keeping of farmers. UKROFS is empowered to withdraw inspection body approval. This has never happened to date; however, a situation arose where an inspection body was on "probation" due to problems pending its effecting changes by a certain date.

From 1999 on, the audits of the inspection bodies will be carried out by the “Auditing Consulting Management Service”, which is a part of MAFF.

4.2.4. The approved inspection bodies

Inspection body 1 is a certification company owned by a charity dedicated to the development of organic farming. The certification company works with both full time and self-employed part-time inspectors, who follow established procedures and use standard checklists for their operations. Almost all inspections are notified in advance to the operator.

The body has inspection and certification activities in organic farming and sustainable forestry in 10-12 third countries, but has no offices overseas. It indicated a preference to work with local inspection bodies for reasons of effectiveness and ethics, and offer help to set up these local bodies in some third countries.

Inspection body 2 is a certification company linked to membership co-operative, that used to have marketing activities, that are now taken over by a separate limited company. It works with part-time self-employed inspectors only, co-ordinated by a self-employed full-time certification officer. The inspectors follow established procedures and use standard checklists for their operations. Most inspectors are mainly consultants in organic farming. The certification officer monitors their cross interests. The annual inspection is always carried out in the same month of the year and all inspections are notified in advance to the operator.

The inspection bodies did not send annual reports to the MAFF/UKROFS, although this is a requirement of Council Regulation 2092/91 (article 9.8). The two inspection bodies visited did not carry out any sampling for residue analysis, as foreseen in article 6 of Annex III of this Regulation.

4.2.5. General measures to prevent fraud on the market

Trading Standards Officers of the local public health authorities regularly inspect food retail premises and as part of their duties they will inspect for the correct labelling of products in shops and on public markets and are vigilant for possible unapproved use of organic labelling. Where they have doubts or concerns they will contact MAFF/UKROFS for clarification. MAFF/UKROFS intends to have a structural co-ordination with the Trading Standards Office in the near future.

Under the general programme to monitor all foodstuffs for pesticide residues MAFF take food samples for analyses, although not focussing specifically on organic products. MAFF produces an annual report of their analyses, which UKROFS receives. Presence of residues on organic products was reported by UKROFS to operators, but apparently not to inspection bodies.

4.2.6. Enforcement measures

The inspection bodies can penalise operators following irregularities or infringements. UKROFS did not have any information on penalties given. The inspection bodies visited had no table available that lists what sanctions are given for which infringements. Four levels of sanctions were identified : warning, re-inspection, withdrawal of a field or a lot, withdrawal of the whole operation.

In the event of fraudulent and/or misleading mislabelling, Trading Standards Officers may prosecute potential offenders under general consumer protection law.

Statutory Instrument 2111 stipulates that “any person who contravenes or fails to comply with the Community legislation, shall be guilty of an offence”. A maximum fine is defined.

5. THE APPLICATION OF ARTICLE 11.6 IN THE UNITED KINGDOM

5.1. The decision making process to grant import authorisations

The importer sends an application request for import authorisation to UKROFS-secretariat. The main check undertaken by UKROFS is whether or not the importer is registered with an inspection body, and whether the exporter is under the control of a recognised inspection body in the third country. The importer has to give an idea of the annual volume concerned.

For the assessment of the inspection body in the third country, it appears that for the large majority of applications 2 criteria carry a lot of weight in the

final decision : whether the inspection body is recognised in a Member State, and, to a lesser extent, whether the inspection body is Ifoam-accredited¹. (Ifoam accreditation is provisionally accepted by the UK as a guarantee for compliance with EN 45011 or ISO 65.) For the other applications, UKROFS sets up its own audit trail. It looks at the standards used by the inspection body and its inspection procedures. UKROFS asks a written statement of the inspection body that the inspection measures will be permanently and effectively applied. In any case UKROFS carries out its own desk audit of standards and operational procedures of the inspection body. When UKROFS is not yet familiar with an inspection body or when importers express doubts, more time is spent on the assessment and individual inspection reports may be reviewed.

Each authorisation is granted for a period ending 31 December 2002, the actual expiring date of Article 11.6 of the Council Regulation. All the import authorisations granted by the UK are stored in a database.

Each application for import authorisation is treated in the same way. Even if the importer has already been authorised in another Member State, he is still required to submit all the required documentation to UKROFS, that will carry out its own assessment.

Since 1993 some 140 import authorisations were granted, of which 40 authorisations were granted in 1998, involving 17 different inspection bodies in 13 different third countries. No authorisations were withdrawn so far.

The system of granting import authorisations recently underwent a transition. Importers were required to demonstrate as of 1st of January 1998 that the inspection bodies in the third countries were in the process of obtaining formal accreditation according to EN 45011 or ISO 65. Import authorisations that involved inspection bodies that did not demonstrate this requirement are subject to be withdrawn.

5.2. Control procedures in place for imports

Inspection body 1 visits the importers' premises once a year. The same inspection manual as for processors' inspections is applied. The inspectors check the premises, the product certificates and the transaction certificates. They audit the paperwork on a sample basis and check the internal traceability system of the importer.

Inspection body 2 visits the importers' premises once a year, and if necessary once more. In general only paper work is done : check shipping documents, bill of lading, certificates and import authorisation. A rough bought/sold balance is made up.

¹ IFOAM, the International Federation of Organic Agriculture Movements set up an accreditation programme for certification bodies on organic farming. The programme is managed by IOAS, International Organic Accreditation Services.

Inspection body 1 indicates that it is difficult to get inspection reports from inspection bodies based in Member States about the operators they inspect in third countries. (The inspection body wants to receive these reports mainly because they want to assess the production standards used by the third country operator against their own private standards.)

5.3. Exchange of views as to the supervision exercised by the competent authority on the compliance of the inspection bodies in third countries with the requirements of the EN 45011 standard

MAFF/UKROFS raised the following elements regarding the evaluation of the current system for granting import authorisations :

- Member States seem to have different opinions on their responsibility in case the importer is registered in one Member State but the goods enter the Community in another Member State. This may give room for abuse.
- Due to different interpretations of Article 11.6 by Member States importers may experience varying conditions and time constraints from one Member State to another which might determine where the imported goods actually first enter the EU.
- More communication between the services in the Member States who are actually responsible for granting the import authorisations would be very useful. The actual notification doesn't give enough information.
- The accreditation of the inspection body is considered as an essential element in the authorisation. Transparent accreditation criteria valid for all Member States should be put in place. The importers have problems in certain third countries which do not have EN 45011 or ISO 65 accreditors.
- The certificate that has to accompany the imported goods is often signed in Europe, which is considered as a weakness.
- It was felt necessary to bring companies that store bulk products under the scope of the Regulation.
- A heavy burden has been placed on importers and the work done by the Member States to assess the third country inspection bodies is duplicated in each Member State. Therefore UKROFS prefers the list of equivalent third countries under article 11.1, if possible, to be extended. It was also suggested that article 11.7 should be adapted in such a way that a harmonised list could be added of inspection bodies related to individual third countries, whose activities there would be recognised as equivalent. It was suggested to establish such a list by a Community approach, involving a multi-task Member State operation under auspices of the Commission. The Ifoam-accreditation programme could play a valuable informative role in this operation.

Inspection bodies raised the following elements regarding the evaluation of the current system for granting import authorisations :

- It is difficult to obtain third country reports from other EU inspection bodies active in third countries other than via importer licensees who import directly into other Member States. Inspection bodies expressed an interest whereby information on such reports might be pooled, thereby avoiding duplication of evaluations and analyses.
- The article 11.6 procedure relies completely on paper work, except for the Ifoam accredited bodies that are evaluated on the spot.
- Concerning article 11.1, the inspection bodies have the impression that it is a long and cumbersome procedure.
- Member States seem to have different opinions on their responsibility in cases where the importer is registered in one Member State but the goods enter the Community in another Member State. This may lead to goods entering the Community without being inspected.
- Regarding EN 45011, both inspection bodies visited indicated that it was their impression that the EU evaluation of compliance with the standards differed between Member States. It was further stated that the applicability of EN 45011 standards was questionable regarding organic farming products and that IFOAM accreditation based on ISO 61 and ISO 65 was perhaps more appropriate at an international level given its sector specificity and its international action radius.

Operators dealing with imports seek shorter and simplified procedures and greater harmonisation on import procedures, to avoid unfair competition and to facilitate the continuity of the ever growing trade. However, it was stressed that the reliability of third country (EU approved) inspection systems was vital.

Certain operators visited asked that the Commission become involved and active in this harmonisation by establishing a harmonised list of approved inspection bodies in third countries. Operators also requested a further development of the list of equivalent countries under Article 11.1.

6. LIST OF SUGGESTIONS

6.1. Suggestions to the United Kingdom

- (1) It would be desirable that the Ministry of Agriculture Food and Fisheries should construct a more transparent legal link concerning the status of UKROFS to the appropriate Minister who is designated as the competent authority by the UK.
- (2) It seems appropriate to strengthen the supervision of the inspection bodies by the Competent Authority. More intensive auditing of the inspection bodies head offices including EN 45011 compliance seems to be required. It is desirable that the auditors should re-examine the correct separation of activities concerning those inspection bodies which have links to other inter-connected bodies which may undertake activities such as marketing and representation of operator groups, in order to demonstrate inspection bodies' impartiality and objectivity.
- (3) The Competent Authority should request an annual report from the inspection bodies as foreseen in article 9.8 of Council Regulation 2092/91.
- (4) The Competent Authority should request from the inspection bodies that they take samples for residue analysis in case there is any suspicion on use of unauthorised products, as foreseen in article 6 of Annex III of Council Regulation 2092/91. In addition positive results of residue presence on organic products obtained during the general pesticides residue monitoring programme should be reported to UKROFS without delay and from there to the inspection bodies.
- (5) It seems necessary to establish more permanent and clearer criteria for the decision-making on the import authorisations done by UKROFS.
- (6) It seems appropriate to improve the import authorisation process in order to prevent that imports are released on the market prior to granting the authorisation.

6.2. Suggestions to the Commission Services

- (1) To consider the extension of the equivalent third country list under Article 11.1 of Council Regulation 2092/91.
- (2) To consider adapting Article 11.7 of Council Regulation 2092/91 by providing a harmonised Community listing of third country inspection bodies recognised as equivalent.
- (3) To consider to bring the storage of bulk products under the scope of the Regulation.