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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Import of organic salmon from Norway

In view of the meeting of the Special Committee on Agriculture on 16 January 2017, delegations will find in Annex an explanatory note from the Belgian delegation on the above subject, to be dealt with under "Any Other Business".

Explanatory note from the Belgian delegation

Import of organic salmon from Norway

The import/export of organic products between the EU, Norway and Iceland can take place in application of the EEA Agreement.

The EU legislation falling in the scope of the EEA Agreement is not directly applicable in Norway and Iceland and it has to be first incorporated into the EEA Agreement itself. To date, the only EU Regulation on organic production that has been so far incorporated to the EEA Agreement is Council Regulation (EEC) No 2092/1991, which does however not cover organic aquaculture. The rules on organic aquaculture were laid down in Council Regulation (EC) No 834/2007 and Commission Regulation (EC) No 889/2008.

These Regulations have not been incorporated to the EEA Agreement because Norway and Iceland are making their incorporation conditional upon a number of derogations to the production rules, in particular on organic livestock production.

The Commission has refused these requests because these derogations would distort competition between the EU and the EEA producers and cannot be accepted by the EU. Furthermore, operators in those EU Member States encountering comparable production conditions to those found in Norway and Iceland manage to comply with the provisions of the EU organics legislation despite facing similar potential problems as those described by the Norwegian and Icelandic operators

The consequence of this lack of incorporation of EU rules is that in EEA countries organic aquaculture products are certified to national rules.

Until 1 January 2015, Article 95(11) of Commission Regulation (EC) No 889/2008 allowed the competent authorities to authorise "*those aquaculture animal and seaweed production units which are established and produce under nationally accepted organic rules before entry into force of this Regulation, to keep their organic status while adapting to the rules of this Regulation*". This transitional period was extended from 2013 to 2015 for a total of 4 years and a half.

As this transitional period has by far expired and the above regulations setting out the EU rules for organic aquaculture production have not yet been incorporated into the EEA Agreement and thus are not applicable in Norway, the certification of Norwegian organic aquaculture products cannot be carried out in accordance with the relevant EU legislation. In this context, Norwegian aquaculture products cannot be marketed in the EU as organic.

The Commission made this situation clear to the Ms Delegations in the Committee on Organic Production (COP) on several occasions. The issue was once again addressed during the last meeting of the COP (NOV 2016), where the Commission stated what follows:

« As regards the presence of Norwegian organic salmon in the market, the Commission reminded the delegations that Member States authorities must enforce the EU Regulations and must ensure that the organic aquaculture products sold in their market comply with the EU Organic Regulations. In line with the provisions set out therein, Member States should give instructions to the control authorities and bodies to prevent the marketing as organic of this product in their markets. Otherwise, Member States could be deemed to be in breach of their obligations under EU law. »

On that basis Belgium took the necessary measures to prevent aquaculture products from Norway and Iceland from being put on the market as organic. Yet, it appears not to be the case in all Member States. This creates a distortion of the market which can be damageable for our operators. Immediate action should be taken to avoid further distortion of the market and to restore a level playing field.