



Council of the  
European Union

**Brussels, 19 October 2023**  
**(OR. fr)**

**12272/03**  
**DCL 1**

**AGRILEG 218**  
**USA 74**

**DECLASSIFICATION<sup>1</sup>**

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Subject: Recommendation for a Council Decision in order to authorise the Commission to open negotiations for mutual recognition of organic production rules and inspection systems with the United States of America

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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<sup>1</sup> Document declassified by the European Commission on 26 September 2023.

# RESTREINT UE



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 5 September 2003 (08.09)  
(OR. fr)**

**12272/03**

**RESTREINT UE**

**AGRILEG 218  
USA 74**

## **COVER NOTE**

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from : Secretary-General of the European Commission,  
signed by Ms Patricia BUGNOT, Director

date of receipt : 20 August 2003

to : Mr Javier SOLANA, Secretary-General/High Representative

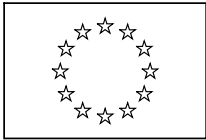
Subject: Recommendation for a Council Decision in order to authorise the Commission  
to open negotiations for mutual recognition of organic production rules and  
inspection systems with the United States of America

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Delegations will find attached Commission document SEC(2003) 912 final.

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Encl.: SEC(2003) 912 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.8.2003  
SEC(2003) 912 final

RESTREINT UE

Recommendation for a

**COUNCIL DECISION**

**in order to authorise the Commission to open negotiations for mutual recognition of organic production rules and inspection systems with the United States of America**

(presented by the Commission)

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## EXPLANATORY MEMORANDUM

1. Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs<sup>2</sup>, lays down a framework of rules on the organic production method and on the labelling and inspection of such production within the European Community. These rules pursue the aim of ensuring conditions of fair competition between the producers of products bearing the organic label as well as transparency at all stages of production and processing, thereby improving the credibility of organic farming in the eyes of consumers.
2. Article 11(1) of Regulation (EEC) No 2092/91 sets down conditions under which agricultural products that are imported from third countries to the European Community may be marketed bearing an indication referring to organic production. Such third countries shall be included in a list. In considering whether to include a third country in the list, the Commission shall take into account the guarantees which the third country can offer as regards the application of production rules and the inspection measures applied.
3. The United States National Organic Program<sup>3</sup> (NOP), as authorised under the Organic Foods Production Act of 1990<sup>4</sup>, as amended, entered into final application on 21 October 2002. The US NOP rules cover production rules and inspection measures for agricultural products marketed bearing an indication referring to organic production. The rules aim to facilitate domestic and international marketing of food that is organically produced and to assure consumers that such products meet consistent, uniform standards.
4. By an undated letter from the US Department of Agriculture (USDA), received by the Commission on 4 July 2002 and reported to the 133 Committee by the Commission in document MD 337/02 of 10 July 2002, the US applied for recognition of the equivalency of its rules with the Community organic farming scheme, for the purpose of exports to the Community in accordance with Article 11(1) of Regulation (EEC) No 2092/91. The Commission services responded by letter of 25 July 2002 proposing to enter into preliminary discussions to analyse and compare EC and US organic production standards and controls with a view to exploring the possibility of a reciprocal arrangement. These discussions were also noted in the EC-US "Positive Economic Agenda" (133 Committee document MD 631/02 of 18 December 2002.)
5. By February 2003, the Commission services reached the view, as reported to the 133 Committee on 14 February 2003, that "'one-way' recognition by one Party of the other Party's standards, without reciprocity, was unlikely to be concluded soon and a mutual equivalence arrangement stood a better chance of success" (133 Committee document MD 076/03).
6. Under the NOP, section § 205.500, there are three ways the US authorities may permit imports from a producer in a foreign country to use the organic designation when placed on the US market:

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<sup>2</sup> OJ L 198, 22.7.1991, p. 1.

<sup>3</sup> Federal Register, Vol. 65, No 246, 21.12.2000, p. 80637; 7 CFR part 205.

<sup>4</sup> Title XXI of 1990 US Farm Bill.

- the foreign producer may be certified by an organisation directly accredited by the USDA—§ 205.500(a);
- the USDA may, following a request from a foreign government, determine that the standards under which the government accredited the foreign certifying agent meet the NOP rules—§ 205.500(c)(1);
- the USDA may, under an "equivalency agreement negotiated between the US and the foreign government", accept a foreign certifying agent's accreditation to certify organic production or processing operations—§ 205.500(c)(2).

The first two procedures require that the rules applied to the foreign operation are identical to, or more stringent than, the NOP. The third option, however, provides for the less-identical standard of "equivalency" to be satisfied. The US authorities have underlined to the Commission that an "equivalency agreement" within the meaning of the NOP shall be concluded by USDA under delegated powers and as such, does not require specific legislation or US rulemaking procedure.

7. The US market for products from organic production is fast growing. It is important to secure access to this market for exports from the Community. Concerning imports, the Community should ensure they have been produced to standards equivalent to EC rules, in order not to undermine the integrity of the organic designation on the EC market.
8. In accordance with the practice and procedures of the Standing Committee on Organic Farming, the Commission requested the US to complete extensive tables comparing the provisions of the NOP with those of EC requirements. The Commission has been assisted in the task of examining these tables, and US legislation, by officials from two delegations (Denmark and the UK), nominated as rapporteurs by the Standing Committee. Together with these rapporteurs, the Commission has examined in close detail the rules of the NOP with respect to (a) principles and objectives, (b) crop production, (c) livestock production, (d) production of processed products, and (e) inspections and controls. The Commission has noted a broad equivalence of objectives and specific rules. In particular, the US underlines the exclusion of GMO and GM-derived products and ingredients. Among the differences in approach, the rules of the NOP restrict veterinary treatments, and in particular prohibit use of antibiotics for therapeutic purposes. In addition, the Commission is concerned that in the sectors of farmed and wild fish, and game-meat, the necessary grounds for equivalence do not appear to be present.
9. The Commission continues to hold the view that 'one-way' recognition of one Party's standards by the other Party, without reciprocity, is not the best option. Therefore, the Community should seek to conclude a bilateral equivalency agreement with the US for the purpose of facilitating trade in products bearing the organic designation in both directions. This agreement should establish a mutual recognition of the equivalency of organic production rules and inspection systems established by the legislation of each Party and provide for procedures in the event of changes to standards. Accordingly, the inclusion of the US in the list referred to in Article 11(1) of Regulation (EEC) No 2092/91, or a comparable arrangement, should be accorded only in the frame of such a mutual equivalency agreement.

10. In view of the above, the Commission believes that consultations and negotiations with the US in order to reach a mutual equivalency agreement for organic-labelled product should be opened without delay under the terms of the annexed negotiating directives.

### **RECOMMENDATION**

In the light of the above, the Commission recommends:

- that the Council authorise the Commission to open negotiations with the United States of America on the mutual recognition of organic production rules and inspection systems, in accordance with the negotiating directives set out in the Annex;
- that, since in accordance with the Treaty the Commission shall conduct these negotiations on behalf of the European Community, the Council appoint a special committee to assist it in this task; and
- that the Council issue the appended negotiating directives.

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## ANNEX

### NEGOTIATING DIRECTIVES

1. The Commission shall enter into bilateral negotiations with the United States, with a view to recognising mutually the equivalency of the organic production systems applied in the territory of each of the Party, for the purpose of facilitating trade in products originating from the organic production method. It shall seek an agreement based on reciprocity and equivalency of production rules and inspection systems, avoiding as far as possible the imposition of additional conditions.
2. The Commission shall ensure that the agreement covers substantially all agricultural livestock, crop and processed products.
3. The Commission shall reserve sanitary and phytosanitary rights by excluding such matters from the scope of the agreement.
4. The Commission shall ensure that products covered by the scope of the agreement are produced without the use of GMOs and GMO derivatives.
5. The Commission shall ensure compatibility between the provisions of the agreement and those in relevant Community legislation.
6. The Commission shall ensure compatibility between obligations arising from the agreement and other international obligations binding on the Community.