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IOAS Official Notice 2017_01
February 2017
Retroactive conversion under the EU Regulation

Applicability: Equivalence to (EC) 834 /2007

References: 834.2h; 834.17; 889.36

Applicable immediately

‘Conversion’ or ‘transition’ to organic production from a ‘conventional’ system is well understood and established in organic agriculture. Recognising periods previous to application for certification as part of a required conversion period is also well-established but the criteria and evidence used to verify such periods vary across the world and between control bodies (CB) and can be a contentious issue and one that might give a CB significant advantage in a competitive environment. The IOAS wants to set down a harmonised approach under its EU Equivalence programme to ensure fairness for all CBs and operators.

The EU Regulation defines conversion as:

... the transition from non organic to organic farming within a given period of time, during which the provisions concerning the organic production have been applied. (Ref: **(EC) 834.2h**).

In addition Ref: **(EC) 834.17** states:

1. The following rules shall apply to a farm on which organic production is started:
 - (b) during the conversion period all rules established by this Regulation shall apply;
 - (e) in order to determine the conversion period referred to above, a period immediately preceding the date of the start of the conversion period, may be taken into account, in so far as certain conditions concur;

and Ref: **(EC) 889.36** states:

2. The competent authority may decide to recognise retroactively as being part of the conversion period any previous period in which:
 - (a) the land parcels were subject of measures defined in a programme implemented pursuant to Regulations (EC) No 1257/99, (EC) No 1698/2005, or in another official programme, provided

that the measures concerned ensure that products not authorised for organic production have not been used on those parcels, or

(b) the parcels were natural or agricultural areas which were not treated with products not authorised for organic production. The period referred to in point (b) of the first subparagraph can be taken into consideration retroactively only where satisfactory proof has been furnished to the competent authority allowing it to satisfy itself that the conditions were met for a period of at least three years.

So for a CB to recognize a period of time before application as being part of the conversion period of an operator there are two options:

- one in which the land can be demonstrated to be under a formal (usually government) scheme which restricts inputs or
- alternatively an area of land which can be demonstrated not to have received prohibited inputs.

Outside of the EU the former is quite rare so the second option is normally the approach taken.

IOAS harmonized requirements

The IOAS has agreed the following requirements must be applied for a CB to approve retroactive conversion under an equivalent EU scheme:

1. **Policy and procedure** - The CB is required to have a written policy and procedure on how they manage retroactive conversion and must provide specific training to inspectors and certification staff on its implementation;
2. **Decision authority** - Although Article 36.2 refers to the 'competent authority' making the decision to grant retroactive recognition it is understood that in third countries a CB recognised under Annex IV of 1235/2008 shall take responsibility for making these decisions on the understanding that all such cases are reported to the European Commission as derogations in the annual report referred to under 1235.12.1.b;
3. The period of time before application recognised as part of the conversion period may be the full three years or a shorter period, depending on the evidence provided and results of the CB inspection;
4. **Evidence of non-use of prohibited products** for the required period is sufficient grounds for reducing the conversion period. Although 834.17.b refers to 'all rules ... shall apply' Article 36.2 only focuses on non-use of prohibited products under the two scenarios;
5. 'Prohibited products' include use of GMO technologies and/or seed treated with prohibited products;
6. Satisfactory documentary proof that no prohibited products have been applied include:
 - a) Declaration from a relevant authority – i.e. one that has knowledge of the land in question. The CB should have some knowledge of the authority in question whether accepting a government or non-governmental authority. Declarations must be accompanied by a signed/stamped map or named land parcels or GPS coordinates i.e. clearly defined and verifiable boundaries. The declaration must give some detail

- of the prohibition e.g. reference to no non permitted inputs does not provide sufficient confidence. A declaration of no chemical or artificial fertilisers or pesticides or a reference to organic agriculture or a specific organic scheme is required. Declarations alone might not be satisfactory if it is clear that the land has been previously intensively farmed. In such a case some farm records should be available and samples (of the crop or vegetation before land preparation) should be taken by the CB; AND
- b) Declaration from the operator or land owner that no prohibited products with specific reference to the (EC) 834/2007 have been applied in the period of time for which retroactive recognition is requested.

7. Records:

- a) As verification of the above, inspections by the CB must always be carried out after application and provision of the above information and before granting the recognition;
- b) Inspection should be ideally performed before the land is ploughed and planted. If this is not possible inspection shall take place at least before the harvest begins.

8. Records:

- a) The operator must maintain records as stipulated by (EC) 834/2007 from the time of application to the CB. Any period between the date of the authority declaration and the date of inspection not covered by farm records in cases where farm activities have taken place shall result in the retroactive conversion being denied;
- b) Justification for, and verification of, the requirements for the reduction of the conversion period must be recorded in the CB inspection report and the certification decision;
- c) The CB shall maintain an easily retrievable list of all applications that resulted in the granting of any period of retroactive conversion. These shall be available for review by the IOAS and form the basis of the reporting to the Commission.

If you have any questions related to this official notice that are within the scope of IOAS supervision, please contact your Client Manager.

February 10, 2017