The Fair Trade Movement's feedback on high-risk organic and in-conversion products from non-EU countries

24 August 2026

EU Delegated Regulation 2021/1698

The Fair Trade Movement, representing over 830 Fairtrade organic producer groups worldwide—comprising nearly 800,000 smallholder families and more than 50,000 worker families— welcomes the opportunity to comment on the draft Commission Implementing Regulation establishing a list of high-risk organic and in-conversion products originating from third countries and their control rates (PLAN/2024/1522), adopted pursuant to Article 8 of Delegated Regulation (EU) 2021/1698.

Overall, Regulation 2021/1698 should include criteria for algorithms in how to identify the high-risk products in order to transparency towards the third countries involved. As well as using only substantiated, agree criteria for classifying high-risk products from Third countries; avoiding the use of unproven residue cases.

The Regulation and the annual published lists should also be explicit about what type of "risk" is being addressed, for transparency reasons. At this stage, it is assumed that this refers solely to the risk of application of non-compliant pesticides or other unauthorised substances, but this should be confirmed and stated explicitly in the text.

The following specific points are raised for consideration:

1. Timing of publication of the annual list

The annual list should be published at the latest by 1 October of the preceding year, to allow control bodies and operators sufficient time for planning of controls, sampling capacity and certification cycles for the following year.

2. Suspicion-based listing should not be the basis for inclusion

Recital (4) and Article 2 of the draft Regulation confirm that products may be listed on the basis of "established" non-compliances "or the suspicion thereof." FTAO reiterates its concern, already raised in relation to Delegated Regulation (EU) 2025/2651, that using suspicion as a sufficient ground for listing departs from basic principles of proportionality and legal certainty. Several entries in the Annex concern countries and products where smallholder and group-certified producers form a significant share of exporters (e.g. Togo soy, Peru cocoa/bananas/avocados, Ecuador bananas). These operators have the least capacity to absorb the cost of a 10–20% mandatory check-and-sampling rate triggered by unresolved suspicion rather than confirmed non-compliance.

This is compounded by the way suspicion enters the system in the first place: organic status is defined by compliance with the process requirements of Regulation (EU) 2018/848, not by the absence of residues, so a residue finding does not in itself establish that organic rules were breached, just as a residue-free product is not automatically compliant. Both situations – a genuine violation and a residue finding that, on investigation, reveals no breach at all – currently generate an OFIS notification and count equally against the country's risk rating. OFIS reports are, moreover, not submitted according to uniform criteria and are not always evaluated in a methodologically consistent way: the same underlying case can generate multiple reports, and reports can include findings below the reporting ('asterisk') threshold or the limit of quantification, unintentional contamination, and substances known to have multiple possible sources that do not reliably point back to the listed origin.

We ask the Commission to amend Article 2 to require that suspected cases be substantiated within a defined timeframe before triggering or maintaining listing, and to publish, for each entry in the Annex, the underlying evidence base (established vs. suspected, and the nature of the non-compliance).

3. Disparity between third-country and Member State check rates

Several entries (e.g. China ginger and tea, Türkiye sultanas) specify a percentage for checks in the third country but leave the Member State column blank, while others (e.g. Peru avocados, Ecuador bananas) apply matching or reduced rates at import. We understand this asymmetry is intentional: Delegated Regulation (EU) 2021/1698 was itself amended to allow combined control rates below 100%, split between origin and EU level, and the underlying methodology shared with Member States already sets out clear conditions governing this split (e.g. sampling at both origin and EU level where three risk conditions are met, and at origin only where two are met). The issue is therefore not a lack of transparency in that methodology as such. Rather, our concern is the effect this approach produces in practice: it places a disproportionate and recurring compliance burden on fresh produce – for example bananas, where shipment volumes and frequency are very high – and, more broadly, that a share of checks continue to be carried out at EU level on products that have already arrived, which is widely seen as an inefficient use of control resources compared with concentrating verification at origin. We ask the Commission to review whether the current split of controls between origin and EU level, and its particular impact on high-volume fresh produce, remains proportionate, and to consider shifting a greater share of checks to origin where equivalent assurance can be achieved.

4. Review and delisting mechanism

Article 2 provides for at least an annual review. We understand that, in practice, the list is set on the basis of raw OFIS notification statistics for the preceding calendar year, without any deeper assessment of whether the underlying cases were substantiated, and that a change in OFIS notification numbers in the coming year would presumably be reflected in the next review accordingly. This raises two concerns. First, this amounts to collective punishment: where a small number of individual non-compliant operators ("black sheep") generate OFIS notifications, the entire organic sector of that country is penalised through country-wide listing and control rates, regardless of the compliance record of the vast majority of operators – and, as noted above, some of those notifications may not event reflect an actual breach. Second, the review does not appear to relate notification numbers to shipment volumes: for high-volume, high-frequency products such as bananas, a given number of notifications represents a far smaller share of total consignments than the same number would for a low-volume product, yet this is not reflected in how the list or the rates are set. Third, once a product-country combination is classified as high-risk, the resulting very high sampling volume makes it correspondingly difficult to fall back below the threshold of cases needed to return to a normal risk level, creating a self-reinforcing lock-in effect, while other product-origin combinations that may in fact warrant closer scrutiny, but are not subject to the same elevated sampling, can remain undetected.

We ask the Commission to clarify whether, and how, notification counts are weighted against shipment/consignment volumes, and to introduce a mechanism that avoids penalising an entire country's organic sector for isolated cases – for example by differentiating at operator or control-body level rather than applying blanket country-wide listing and rates, and by setting a defined, transparent threshold and timeframe for delisting once notification numbers fall.

5. The 1.000 tonne-volume threshold is arbitrary and structurally biased

We understand a quantity threshold of 1,000 tonnes is applied as part of the criteria for identifying high-risk product-country combinations. This threshold cannot be objectively justified and places a disproportionate burden on certain imported organic products compared to others. In particular, fresh produce is affected more severely than dried goods, given the volumes typically involved; products sourced from only a small number of third countries are more severely affected (e.g. bananas, imported in large volumes from a limited number of countries), as are products classified under one or only a few customs tariff headings. We ask the Commission to assess import volumes in relation to the total quantity of the relevant organic product imported into the Union, rather than applying an absolute tonnage cut-off that structurally disadvantages high-volume, geographically concentrated, or narrowly classified products.

6. Withdrawal of the fixed 5%, 10% and 20% inspection rates

The draft Annex applies flat, fixed percentages – 5%, 10% or 20% – to each product-country combination, and every consignment falling within that combination is subject to the same rate regardless of the individual operator's or consignment's actual risk profile. This is a risk-category approach, not a genuinely risk-based one: it does not distinguish between operators with a strong compliance record and those without, nor does it allow the rate to move as new evidence (positive or negative) becomes available outside the annual review cycle. We appreciate that the maximum rate applied is lower than in previous years, but the methodology for setting the specific quota within the 5–20% range is not clear from the Regulation.

We ask the Commission to withdraw these fixed rates and instead return to a genuinely risk-based approach, under which the applicable percentage for a given consignment reflects the specific, current risk evidence relating to that operator, control body or supply chain – for example through a sliding scale linked to compliance history and ICS track record, and based on non-conformities identified in relation to import volumes rather than on raw OFIS report counts – rather than a single fixed rate applied uniformly to an entire country-product combination.

7. Clarification needed on lab-result assessment and release of consignments

The effectiveness of the percentages set in the Annex depends entirely on how compliance is assessed once a sample is taken and a laboratory result is obtained. We ask the Commission to clarify how decisions are made on the basis of lab results, including timelines for release of consignments. Setting control percentages without clarity on this process risks unintended harm, particularly for perishable products, which may deteriorate while awaiting a laboratory result or an authority decision. We suggest that, by default, the Member State check-and-sampling percentage for perishable products be set at zero, or that another mechanism be introduced to prevent perishable consignments from being held pending laboratory or authority action.

This concern is sharpened where sampling takes place at both origin and EU level: differing sampling procedures in the third country and the importing country can produce differing results, and it is unclear who decides the fate of the goods, and on what basis, in the event of two conflicting outcomes. Duplicate sampling of this kind is particularly damaging for fresh produce, where the additional time involved can be enough for goods to spoil or require destruction, contributing directly to food waste, alongside the demurrage charges and delivery-failure costs that fall disproportionately on small businesses. We ask the Commission to avoid duplicate sampling in both the exporting and importing country wherever possible, and to set out a clear procedure for resolving conflicting results without prolonging the storage of perishable consignments.

The FTAO remains available to provide further input, including evidence from Fair Trade certified supply chains affected by the products and countries listed in the Annex.

Get in touch:

For more information, please reach out to our International and Institutional Relations Manager, Virginia Enssle at enssle@fairtrade-advocacy.org.

This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of the FTAO and do not necessarily reflect the views of the European Union.

Fair Trade Advocacy Office
Village Partenaire – Bureau 2
Rue Fernand Bernier 15 - 1060 Brussels, Belgium
EU Transparency Register Nr: 860901940087-20
info@fairtrade-advocacy.org
www.fairtrade-advocacy.org