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## Mexico

### Organic Products

### Mexico's Organic Products Law

### 2006

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**Report Highlights:**

On February 8, 2006, the Mexican government announced passage of the Organic Products Law after years of legislative revisions. The new law will regulate organic food product production and commercialization and require that all products "claiming" to be organic be certified by an internationally recognized organization.

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Includes PSD Changes: No  
Includes Trade Matrix: No  
Unscheduled Report  
Monterrey ATO [MX4], [MX]

**Disclaimer:** This summary is based on a *cursory* review of the documents referred and therefore should not, under any circumstances, be viewed as a definitive reading of the regulations in question, or of its implications for U.S. agricultural export trade interests. In the event of a discrepancy or discrepancies between this summary and the complete regulations or announcements as published in Spanish, the latter shall prevail.

## EXECUTIVE SUMMARY

Mexico's regulatory efforts towards organic production began in 1995 with the issuing of Official Norm NOM-137-FITO-1995, which established specifications for organic agricultural production and processing. Following its publication, however, the Government of Mexico (GOM) concentrated its efforts on marketing and promotion strategies despite the fact that they had yet to establish a legal framework for regulating organic production. On February 8, 2006, the Mexican government announced passage of the Organic Products Law, after years of legislative revisions. The new law will regulate organic food product production and commercialization and require that all products "claiming" to be organic be certified by an internationally recognized organization.

## BACKGROUND

According to the United Nations' Food and Agriculture Organization (FAO) and the Conference on Trade and Development (UNCTAD), as of 2002, more than 30 countries had operational regulations on organic agriculture and over 20 others had programs in various stages of development.

Spurred by an organic frenzy promoted by consumer concerns for healthier and better quality foods, marketing forces have compelled traders to include organic standardization as a key element to guarantee the conditions demanded by international markets. The Mexican government has also undertaken commitments to include organic agriculture as a strategic sector. Organic production in Mexico has increased in area planted from 23,000 hectares in 1996, to more than 400,000 in 2004. The same trend has been observed in livestock production, fisheries, forestry, apiculture and other production agriculture activities subject to "organic" practices.

Mexico currently ranks 16th in world organic production and fifth in Latin America with over 10,000 certified producers. Almost every state in Mexico has areas of organic production and the products include coffee, mango, sesame seed, vanilla, apples, avocados and other products. In 2004, organic coffee accounted for 25% of the total Mexican coffee output. Almost all the organic production of Mexico is destined for export markets, and thus the need for compliance with international organic regulations. These regulations and certification processes have traditionally been set by the consuming markets in the United States, Germany, Netherlands and Italy, which collectively account for 76% of the organic certifying organizations.

This information was used by Mexican Congressmen to design and promote a National Organic Products Law, which was finally approved last year, and reflects a clear effort of Mexico to take advantage of the competitiveness of Mexican organic products in international markets.

## LEGISLATION HISTORY

PRESENTED by Sen. Ricardo Gerardo (PRD, Baja California Sur) on Nov. 25, 2003.

APPROVED in Senate by 85 votes, on Apr. 26, 2005.

APPROVED, with changes, in Lower House, by 357 votes, on Oct. 18, 2005.

--- Returned to Senate for approval of changes (text adjustments) ---

APPROVED in Senate by 88 votes, on Nov. 17, 2005.

APPROVED in Lower House by 321 votes, on Dec. 8, 2005.

PUBLISHED on the Diario Oficial de la Federacion on Feb. 8, 2006.

## JUSTIFICATION

When presented, the following considerations were used to validate the need for this Law:

1. There is an increasing trend of agricultural production under organic guidelines, that is, avoiding the use of synthetic chemicals or genetically-modified organisms.
2. Organic production is a feasible alternative for Mexican farm workers, due to weather diversity, accessible technologies and a growing domestic and international market concerned with environmentally responsible and healthy food production.
3. Organic production practices have been regulated in other countries that are introducing standards and criteria to promote the sector. Mexico has trade agreements with many of these countries, which require regulatory compliance.
4. The lack of domestic regulation inhibits market access of Mexican organic products to the European Union, the United States and Japan's demanding markets.
5. Statistics available show that organic production in Mexico has registered significant growth since 1996 in products such as coffee, avocado, vanilla, corn, sesame seed, vegetables, mango, oranges, papayas, bananas and honey.
6. An Organic Products Law would indeed create alternative production options, income and labor generation, and a positive effect on soil and water conservation.
7. The promotion of organic production in agriculture, fisheries and forestry will contribute to Mexico's food security and sovereignty, public health, environmental protection and equity to underprivileged social groups.

## BILL OF LAW DESCRIPTION

The Organic Products Law has 50 articles, divided into Eight Titles (with 5 provisional articles that define further regulation to be developed):

### Title One. Law's application and objectives

The primary objective is defined as: "To promote, regulate and establish criteria and procedures related to organic production activities, in order to create a framework of confidence for domestic and international growers and consumers". Definitions are set and the range for applicability of the Law is defined. Mexico's Ministry of Agriculture (SAGARPA) is identified as the responsible agency for the Law's interpretation and application. An area of cooperation is defined with the Ministry of the Environment (SEMARNAT) in organic wood products and derived forestry goods.

### Title Two. Organic production conversion and specifications

This section basically stipulates that the requirements and specifications used to achieve organic certification or recognition will be defined by SAGARPA and until full accreditation is achieved, the use of the "organic" description on products (domestic) is forbidden. The same criteria will apply to organic product storage, transport and distribution. For forestry products, some standards may apply from the Wildlife General Law and the Sustainable Forestry Development Law.

### Title Three. National Organic Production Council

The law would create a National Organic Production Council (CNPO), which would serve as a consulting body to the Ministry of Agriculture. The council will have representatives from various sectors, including producers, processors, brokers, certification agencies and consumers. The Council will be headed by the Secretary of Agriculture and among its main functions are:

1. Advise SAGARPA on domestic and international regulations.
2. Cooperate with SAGARPA to achieve international recognition of the system.
3. Suggest organic promotion and development policies.
4. Establish workgroups related to organic production activities.
5. Setup a database of organic-related agents (associations, companies, consultancies, growers, packers, shippers, etc) and a mechanism for generating statistics on the sector.

#### Title Four. Organic production control and certification

This is the heart of the Law, yet the chapter makes a lot of reference to provisions that are "to-be-developed". This chapter also sets the grounds for Organic Certification Programs, following procedures and criteria to be set by SAGARPA. Certification of organic production will be encouraged among small growers, who will request certification by accredited private enterprises, to be known as "Certification Organizations". In addition, SAGARPA will publish and update a list of substances, raw materials, products and ingredients that will not be allowed in organic production, based on the Council's recommendations. SAGARPA will also develop the criteria applicable for evaluating these "forbidden" products. A mark or seal will be created to "differentiate" certified organic products.

#### Title Five. Organic products and ingredient imports

Very important to U.S. market access, this section stipulates that any product or raw material used for organic production imported into Mexico must comply with an equivalent or similar regulation from their country of origin in order to be allowed to bear the "organic" description. The keyword is "equivalent or similar control mechanism". Organic promotion agencies have commented that this law is trying to establish a Program likely to mirror the USDA's National Organic Program, so mutual recognition will be very important to improve the conditions for market access of U.S. organic products.

#### Title Six. Promotion and development

The Law considers that, since organic production generates a positive effect on the environment, many countries that regulate organic products have included a section for promotion and development of this type of agriculture. Fiscal and economic incentives, research and development investment promotion, access to new technologies and small business development programs are to be defined by Federal, State and Municipal governments. Again, this Law only considers the grounds for these other projects, but nothing concrete is defined.

#### Title Seven. Social priorities for organic production

This one-article section basically fulfills the requirement of the Mexican Congress to ensure that this Program has a direct impact on equity, helping underprivileged social groups (rural communities, small entrepreneurs, tribal groups, etc.) and promotes sustainable development.

#### Title Eight. Law infringement and penalties

In order to guarantee confidence that organic products comply with the regulations set by the Law, a series of violations are defined, such as presenting a product as "organic" when it is not or bearing certifications from non-registered organizations.

Finally, Congress explained that in its analysis, it included other efforts carried out by the Federal government to promote organic production, but concluded a general Law was the best mechanism for meeting the objectives set. Also, the way the Law was written helped to avoid any additional, unnecessary bureaucracy and paperwork, and also to include a financing option to the ones already offered by the Federal government (e.g., user fees for

certification requirements). However, the Law does not state which specific areas of SAGARPA or SEMARNAT will have these new "functions".

### **ADDITIONAL COMMENTS**

Currently, organic production certification in Mexico is carried out by foreign companies (i.e. SGS), that use internationally recognized criteria. One reason for this is the fact that almost 90% of organic production from Mexico is destined for export to foreign markets. In the absence of an equivalent certification system in Mexico, products need to be certified by an approved international agency for acceptance in foreign markets.

Currently, SAGARPA has no specific "organic-friendly" import requirements, other than a few exceptions considered on a case-by-case basis. One company that imports organic beans for processing in Mexico and then re-exports the packaged product, requested SAGARPA to accept an alternative pest control procedure for the beans rather than the standard fumigation requirements (enforced on all imports) so that the organic certification would not be lost in the processing stage; similar requests have been handled on a case-by-case basis. SAGARPA reports that they have been working on an Official Norm for alternative procedures for foreign imports bearing the "organic" classification, but the document has had to wait for the Organic Products Law to be in effect in order to have legal support.

This Law is one of the first efforts to organize and regulate organic production in Mexico. Based on traditional Mexican law development, the new Organic Products Law sets the grounds for a series of complementary additional laws, regulations, decrees, policies, standards, criteria, rules and codes that will need to be developed to achieve the objectives defined in the Law. It can be seen as the original "wish-list" from which all additional legal framework will be constructed.

According to the Organic Crop Improvement Association (OCIA), a main objective of the Mexican organic law is to achieve equivalence with other official organic programs in the U.S., Japan and Europe, which are the top-ranking destinations for Mexican organic products, and to stimulate Mexico's own internal organic markets.

The need for additional regulation and the experience the United States has with organic production standardization and certification, offers a great opportunity to help in the development of Mexico's Organic Program. Mexico is anxious to achieve international recognition of their organic products and will welcome any assistance offered by more experienced countries.

This opportunity will certainly help Mexican products reach the international markets, but will also ensure the "opening" of the domestic market for organic products produced under the auspices of mutually recognized certifications. This effort, however, will need to be accompanied by a serious and aggressive promotion strategy focused on expanding, if not creating, the small Mexican organic market.