



## **Regulation of the Participatory Guarantee Systems in Brazil** *A case Study*

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March 2010

Case study commissioned by IFOAM

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### **Introduction**

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In 2004, representatives of different initiatives related to certification of organic agriculture not associated to third-party certification schemes, met at the International Seminar on “Alternative Certification”, event organized by MAELA and IFOAM in Torrez (Rio Grande do Sul, Brazil). During the seminar, experiences from 21 countries were shared and by analysis, it was observed that although they were developed in different contexts, they converged in a set of shared principles and values. Since the seminar, these organic certification systems operate through a common working framework and were designated as “Participatory Guarantee Systems” (commonly abbreviated as PGS).

Since this first encounter, the different PGS initiatives set off a network for collaborative work with the purpose of strengthening these systems and hence the organic production system and marketing strategy, mainly local, in which they operate. The strengthening of such systems also involves their legal recognition.

Brazil, a pioneer in the PGS, was also the first country to incorporate this in their legislation relating to organic production, thereby giving it the same rank of validity as the third party certification system.

The following is a brief systematization of the process developed in Brazil for the inclusion of PGS in the regulation of organic production. This case study aims at highlighting the key elements of the process in order to allow eventual adaptation to other contexts in other countries.

### **Background**

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When, in 1994, the Brazilian government (through the Ministry of Agriculture - MAPA) took the first initiatives for the regulation of organic production, the organic sector in the country had many voices whose main disagreement centered around the guarantee systems:

- part of the Brazilian organic sector only recognized the third-party certification, and doubted the credibility of participatory certification as a reliable quality assurance scheme.
- the other part required the incorporation of other existing guarantee schemes in national legislation and were supported by thousands of farmers who defend them

The relevance and impact of the debate on organic certification, promoted the organization of the proponents of conformity assessment systems different to the third-party certification. As a result, a wide range of initiatives on participatory certification systems<sup>1</sup> emerged throughout Brazil, the majority of them in the south of Brazil. The articulation of those initiatives resulted in the establishment of the “Red Ecovida de Agroecologia” in 1998, formed by small-scale organic farmers, technicians and consumers from three southern states.

- ▶ The disagreement within the organic agriculture sector on the regulation of organic certification systems was not resolved. As a result, the process of developing the general legal framework of the organic sector was stopped for some years.

## Actors

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In October, 2002, the first National Encounter on Agroecology (ENA by its acronym in Portuguese) was held with the purpose of promoting agroecology and bringing the actors in this field together. Since then, a group of the national organic sector created the Organic Agriculture Group (GAO by its acronyms in Portuguese), which was composed of producers, marketers, NGOs, certification agencies and personnel from federal offices.

- ▶ The GAO was created to reach consensus on relevant issues related to national organic agriculture in order to write an organic agriculture law.

## Process

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To overcome the *status quo* created by the lack of agreement on the regulation of the certification systems, the State delegates to the GAO to find the necessary global consensus in the organic sector that will define the law of Organic Agriculture of Brazil. After intense discussions and more than a year of work, that consensus is reached and the Law is published.

For the drafting of the law, the State (MAPA) invited the GAO to organize in a jointly manner several working groups on specific topics. Participatory certification was one such a group. The objective of these groups was to define the content of a decree and the regulatory instructions that will put in practice the content of the Law. The MAPA assumed the responsibility of consolidating the outcomes of the different working groups according to the legal framework.

During the process, three main arguments were used to support the inclusion of the PGS in the Organic Agriculture Legal Framework: i) the need to have a guarantee system that is adequate to the social, cultural and economic reality of local peasant agriculture and family farming; ii) avoid making certification a barrier to local market development; iii) no objection on the inclusion of PGS in the national legislation.

## Outcome

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The law was passed in December 2003 (Law 10,831 of December 23, 2003.) and four years later, the decree that will regulate the Law – which included the PGS – was approved (Decree

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<sup>1</sup> Now PGS

6323, December 27, 2007). The implementation of PGS was recognized through the Normative Instruction n°19 on the 28th of May 2009.

Under this regulatory framework, the **Brazilian System for Evaluating the Organic Conformity (SisOrg)**, which has its own organic production identification seal was created. It validates<sup>2</sup> the following certification systems:

- Third-party certification
- Participatory Guarantee Systems

At the same time, the legislation recognized two PGS systems in Brazil:

- formal systems: **Participatory Bodies for Conformity Evaluation (OPAC** by its acronym in Portuguese), which are recognized by SisOrg.
- informal systems: **Organizations for Social control**<sup>3,4</sup> (OCS), not part of the SisOrg.

The Law entered into force on the date of its publication and the deadline for everyone to comply with it is December 2010.

- ▶ In Brazil, PGS-certified producers by the OPACs obtain the same seal as the ones certified by third-party certification bodies.

## **Methodology**

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The GAO, assumed the responsibility of elaborating a legislative proposal to address the different interests/perspectives of the organic sector. The work carried out by GAO provided specific features to the Brazilian organic agriculture legislation. The organic sector interested in promoting the PGS, was supported by the people involved in the process and were offered some financial support from the State to cover part of the following incurred costs:

- technical and academic assessment during the PGS systematization
- part of the professional advisory on legislation and certification of industrial processes

GAO's requests and proposals on PGS were based on the findings of three-systematized PGS experiences, which served as basis for the drafting of the legal text.

## **Key Aspects of the Process**

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The systematization of the process through a participatory observation approach identified three key elements to its success. These are:

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<sup>2</sup> Paragraph 2º, Art. 3º, Organic Agriculture Law - Law 10831

<sup>3</sup> Paragraph 1º Art. 3º, Organic Agriculture Law - Law 10831

<sup>4</sup> The OCS:

- Are groups of producers with or without legal registration, initiated to carry out direct commercialization and are protected by the Art. 3, which mentions that certification is needed for direct commercialization.
- Should declare their conformity to and register at the Normative Instruction no. 64, which is managed by the MAP. This registration included the name of the OCS, and name and ID of the participants, including a description of the mechanism of social control.

- **Technical capacity building** of the people participating in the negotiations. This was done through the systematization of PGS processes with the participation of highly educated people (e.g. PhD students)<sup>5</sup>.
- An **external feedback** provided by specific consultancy agencies not related to the organic world. A certification agent of industrial processes and a consumer rights attorney participated in the process.
- **Fluent communication** between participants, advisors and governmental coordinators.

The specific context in which the Organic Agriculture Law in Brazil was developed was unique and it is not expected to be replicated in an identical manner in other countries. Nevertheless, analyzing the circumstances surrounding this process in other countries, it should be noted that some general field conditions have occurred in several processes. We highlight three:

- the need to generate certification systems that are socially, culturally and economically adapted to the reality of the family, peasant and indigenous farming;
- Support and commitment of different sectors of the society to elaborate an organic agriculture regulatory system characterized by a wide and endogenous scope.
- Governments willing to draft and pass laws that reflect the current organic agriculture reality.

These conditions could be considered *sine qua non* for a regulatory process of Organic Agriculture including PGS.

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<sup>5</sup> MEDAETS, JEAN PIERRE PASSOS - A construção da qualidade na produção agrícola familiar: sistemas de certificação de produtos orgânicos, 213 p., 297 mm, (UnBCDS, Doutor, Gestão e Política Ambiental, 2003). Tese de Doutorado – UNB. Centro de Desenvolvimento Sustentável. y FONSECA, Maria Fernanda de Albuquerque Costa. A institucionalização dos mercados de orgânicos no mundo e no Brasil: uma interpretação. Seropédica: UFRural/RJ. ICHS. CPDA. 2005. 476p.