



Food and Agriculture
Organization of the
United Nations



International Federation
of Organic Agriculture
Movements



United Nations Conference
on Trade and Development

INTERNATIONAL TASK FORCE ON HARMONIZATION AND EQUIVALENCE IN ORGANIC AGRICULTURE

0609 DB

Terms of Reference

Tool for Equivalency of Organic Standards and Technical Regulations

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Background

The ITF is interested in reducing barriers to the trade of organic products; and it is focusing on equivalence as a key element of its strategy for reducing these barriers. The scope for equivalence includes the governments regulating organic agriculture and organic standards setters in the private sector. A key question of the ITF is “How“ to judge equivalence of organic standards and technical regulations. What process and criteria should be used? The ITF is interested to develop specific tools for developing equivalent standards and technical regulations, and also judging equivalence of existing organic standards and technical regulations. This Terms of Reference concerns the development of a tool that will be useful for judging the equivalence of existing organic standards and technical regulations.

Current Situation

Article 2 of the TBT agreement provides measures that governments should undertake to avoid erecting barriers to trade when establishing and administering their technical regulations. Article 2.7 directs governments to consider the technical regulations of other governments as equivalent if these other regulations fulfill the same objectives. ITF is exploring the use of common objectives as one tool for equivalence; but it appears that its utility is mainly realizable when standards and technical regulations are under development.

The Codex Guidelines for the Development of Equivalence Agreements Regarding Food Imports and Certification Systems¹ (CAC/GL 34) has provided a structure and outlines a process to follow between countries acting bilaterally or multilaterally, to develop equivalence agreements concerning food import and export inspection and certification systems. These may cover trade in one or multiple directions between trading partners. The model is intended to provide a framework for the facilitation of the international trade of food products while at the same time, ensuring their safety and integrity. However, CAC/GL 34 it is focused mainly on equivalence of conformity assessment. The guidelines state that this process will be “...facilitated by the use of Codex standards, recommendations and guidelines by both parties”.² It therefore sheds only a little light on how to judge the equivalence of different standards.

Currently, there are a few unilateral equivalence agreements on organic regulations in the government sector, but no multilateral equivalence agreements. The European Commission has approved seven countries’ organic regulations as equivalent with Council Regulation 2092/91. In the procedures there is no guidance provided as to what factors may be taken into account in judging equivalence of the rules for organic production and processing; and in the actual implementation of the approval, the issues related mainly to conformity assessment rather than the requirements for operators. The USDA has approved several governments under the NOP Regulation, but only for their ability to supervise conformity assessment for compliance with the USDA NOP regulation. The USDA has forged no equivalence agreement with another government under the provisions of the NOP regulation. In Japan, MAFF has developed equivalence agreements with several countries. It has been difficult for the ITF to determine the mechanisms for the assessment by MAFF, but evidence suggests that the process is based on compliance with specific JAS requirements, rather than on criteria for determining equivalence of the different regulations.

¹ Codex CAC/GL 34

² Codex 1999: S7 5.27

In the private sector, IFOAM Accreditation Bodies (ACBs) have forged an MLA that covers both the standards and the certification body requirements. With respect to the standards, the ACB MLA is based on compliance with the IFOAM Basic Standards (IBS), as verified through the accreditation process conducted by the International Organic Accreditation Service, IOAS. In contrast to all the previously-described compliance-based approval processes, IFOAM has very recently approved a procedure and set of criteria for judging other organic standards as equivalent to the IBS.³ However, these new criteria are untested.

Objective

The project aims to elaborate a tool for equivalence of organic standards and technical regulations⁴ that is based on sound principles and decision criteria. The tool should be applicable within and between the government and private sectors.

Process

The tool should be developed within the general framework of the relevant WTO TBT Guidelines and CAC/34 Guidelines for the Development of Equivalency Agreements. In the case of government, it should also consider the legal basis for equivalency. Regarding process and decision criteria, reference will be made to the IFOAM Policy for Approval of Other Standards (policy 43), experience of governments with equivalence determination, and to relevant decision criteria that have been successfully used for equivalency in other sectors. The project should recommend not only the technical tool, but the means to implement the tool. In this regard, the project should be sure to address equivalency in the context of unregulated organic markets⁵ and also the potential for the vehicle of regional trade agreements to address organic sector trade. It should also address the feasibility of applying the tool; not only for actors within the private sector or the government sector, but also between actors from the private and government sectors. Reference to the ITF work on common regulatory objectives should be made as another complementary approach to equivalency, but the project should not be centered on this approach. The project should build on other ITF work, including the papers, *Existing and Potential Models and Mechanisms for Harmonization, Equivalency and Mutual Recognition*, *Strategy on Solutions for Harmonizing International Regulation of Organic Agriculture*, and *Experiences of Equivalence and Recognition Mechanisms in the Regulation of Organic Agriculture*.

Report

The report will include a background, the conceptual basis and rationale for the tool, a description, a practical format for the tool, and implementation process. It will address all the topics included in the Process section above. The report will be presented by the consultant at an ITF meeting in 2007.

³ IFOAM Policy 42

⁴ For the purpose of this project, only those parts of regulations dealing with requirements for production and processing (e.g. the requirements for operators), are relevant.

⁵ For example, the use of the private sector system in the unregulated markets and recognition of this system by governments with regulated markets.

Qualifications of Consultant

- knowledge of relevant trade policies and guidelines, especially concerning equivalency
- knowledge of the regulatory aspect of organic agriculture and trade
- general knowledge of organic principles, standards and technical regulations

Timeframe

Report to be delivered by July, 2007

Fees

To be determined.