



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

Tool for Equivalence of Organic Standards and Technical Regulations

Prepared by Diane Bowen

International Federation of
Organic Agriculture Movements
(IFOAM)

ITF - Secretariat:
Diane Bowen Secretary
d.bowen@ifoam.org
phone +1 414 352 5789
fax +1 253 669 7921

Matthias Fecht Coordinator
m.fecht@ifoam.org
phone +49 228 926 5018
fax +49 228 926 5099

Executive Summary

This paper presents a practical tool for implementing an assessment of equivalence of organic standards and technical regulations. The main body of the tool is a table of steps whose contents lead to achieving certain process qualities: clarification of objectives and scope for the standard, full legal context for the standards, comprehensive standards comparison, structure for the dialogue about equivalence, and transparency. Earlier sections of the paper review the history of the topic of equivalence in the ITF, and provide a framework for the tool from relevant provisions of the WTO TBT and Codex Alimentarius Guidelines. Annexes contain a sample policy and procedure from the private sector for approving another standard as equivalent and a sample template for managing the assessment of equivalence.

Introduction

With equivalence in its name, the ITF has focused on this pathway to reduce trade barriers caused by the many organic standards and technical regulations worldwide. ITF has defined and analyzed the term (see ITF Glossary in Annex), pinpointed the concept in international trade policy, researched models for application, and reviewed the current use of equivalence in the organic sector. ITF has further committed to developing specific tools for equivalence of both organic standards and technical regulations and conformity assessment systems. On the conformity assessment side, a specific norm, *International Requirements for Organic Certification Bodies (IROCB)* is being developed to serve as a reference for determining equivalence of accreditation and approval systems for organic certification bodies. Regarding standards and technical regulations for organic production and processing, the ITF has decided to develop a tool kit for determining equivalence, which will function as practical guidance. According to the Terms of Reference, the tools should be consistent with the frameworks for equivalence in the WTO TBT and Codex Alimentarius, and they should draw from practical approaches to deciding equivalence within and beyond the organic sector. This paper reviews the background leading to tool development and addresses the international framework. It then proposes the tool mechanism, including decision criteria. Analysis of how the Tool meets the ITF criteria for its own proposals is presented in Annex I.

Background

Previous studies for the ITF have built up a body of information about equivalence relevant to the ITF's objectives.

- *Current Mechanisms that Enable International Trade of Organic Products* (2nd ITF meeting, October 2003) identified and described the existing equivalence determinations and agreements in both the government and private domains of the organic sector.
- *Existing and Potential Models and Mechanisms for Harmonization, Equivalency and Mutual Recognition* (2nd ITF meeting) presented relevant international frameworks for equivalence in the WTO TBT Guidelines, Codex Alimentarius and the Organic Guarantee System of the International Federation of Organic Agriculture Movements. The study drew parallels between WTO guidance and the prevailing wisdom of the organic sector by observing that, "The exceptions for harmonization of standard-setting and conformity assessment are interesting for organic agriculture in that there may be a need for different regulatory approaches based on climatic or geographic conditions."
- This study also identified potential models for harmonization and equivalence from other sectors, but the equivalence models were focused on equivalence of conformity assessment systems rather than of standards and technical regulations for products or production methods.

- *Strategy on Solutions for Harmonizing International Regulation of Organic Agriculture* (4th meeting, November 2004) suggested measures to determine the similarities and differences among key international, national and private organic standards and technical regulations and to then determine a means for access to the various standards and technical regulations through equivalence to an international standard. This paper also proposed 10 criteria for the ITF to examine when considering proposals, recommendations and tools for solutions, which are reproduced in Annex 1.
- *Experiences of Equivalence and Recognition Mechanisms in the Regulation of Organic Agriculture* (5th meeting, December 2005) described to the extent possible, background details of both successful and failed attempts to establish equivalence among organic standards and technical regulations. Included in the description were efforts of USDA and the European Commission toward a mutual recognition agreement, which ultimately failed, and the effort of IFOAM to approve the private American Organic Standard, which also failed. The paper also described the process by which the European Commission determined the equivalence of the technical regulations of third countries, and the option under the EU Regulation 2092/91 for member states to authorize imports on a case-by-case basis based on a determination that the product was produced and processed to equivalent requirements and that the conformity assessment was also equivalent to the measures required by the EU Regulation.
- *Objective of Organic Standard Programs* (5th meeting) reviewed and analyzed the potential for establishing equivalence based on common objectives. The paper explained that objectives can be established at various levels, ranging from principles and aspirations to programmatic objectives to specific production and environmental objectives aimed at producers and consumers. This paper also reviewed and analyzed the UNECE scheme for Common Regulatory Objectives (CRO), which is a multilateral approach with a formal process and structure. The outputs of the process for each (CRO) are a defined scope of products, a set of multilaterally agreed general objectives, and a compendium of existing national and international standards that are agreed upon as related to the objective. The paper concluded that this approach would not provide solutions for existing organic standards and technical regulations, although it might be useful where several governments are developing new regulations. The CRO approach is also quite different from the project at hand, which is to develop a tool to be used by individual actors, private or government, in the flow of the current system, and not to create new multilateral projects.
- *Common Objectives of Organic Standards Systems* (6th meeting, October 2006) was a continuation of the “Objectives” paper from the 5th meeting. This paper proposed specific topical objectives in organic production, processing and labeling that could provide a basis for an objectives-based equivalence scheme. The proposed objectives fall somewhere between the level of principles/aspirations and the level of specific production and environmental objectives in individual standards. They are common themes identified from a set of key standards and technical regulations that were assigned by the ITF for consideration in this exercise.
- *Terms of Reference for Tool for Equivalence of Standards and Technical Regulations* (6th meeting) was requested and reviewed by the ITF. The ITF had earlier sought to agree on a single international standard, but finally concluded that the two existing international standards (Codex Alimentarius Organic Guidelines and IFOAM Basic Standards) both had relevance, the former for governments and the latter for the private sector, albeit with some crossover in both directions). It was agreed by ITF to support efforts toward further harmonization of these standards. Rather than

proposing a single model for equivalence of standards and technical regulations, it was agreed to develop practical tools for equivalence that could function across private and government sectors. The Terms of Reference was discussed with the ITF and revised after the 6th meeting in response to comments. This paper is the first step toward fulfilling these Terms of Reference.

Framework for the Tool

The ITF specified that the Tool for Equivalence should be developed within the framework of the WTO-TBT and Codex Alimentarius, specifically CAC/GL 34, *Guidelines for the Development of Equivalence Agreements Regarding Food Import and Export Inspection and Certification Systems*.

WTO

The Agreement on Technical Barriers to Trade states in Article 2.4 that “Where technical regulations are required and relevant international standards exist or their completion is imminent, Members shall use them, or the relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfillment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.” While establishing use of international standards as the first tier in a hierarchy of approaches to trade facilitation, the WTO also recognized that it may not always be appropriate for a country to adopt an international standard, or even base their technical regulations on an international standard. Therefore the WTO included another provision, Article 2.7, which states that “Members shall give positive consideration to accepting as equivalent technical regulations of other Members, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfill the objectives of their own regulations.” The WTO TBT texts stop at this point, giving no further specific guidance for how to establish equivalence. However, the framework is clear, that determination of equivalence should be based on objectives. A practical challenge arises however, because many regulations and standards – organic or otherwise – have not included specifically stated objectives, even though, as pointed out in the two ITF papers on objectives of organic standards, objectives (and even “common” objectives, can be deciphered from them. Recent revisions of key regulations and standards are addressing the gap. Council Regulation 834/2007 (the new EU organic regulation) in Article 3 presents specific objectives and is followed by Articles 4 to 7, which explain principles that serve as further interpretation of the objectives. IFOAM’s draft “Benchmark for Organic Standards”¹ feature principles and objectives in each chapter and state that in order to comply with the Benchmark, other organic standards must fulfill all the specified objectives.

Codex Alimentarius

Although CAC/GL 34 is aimed at equivalence of conformity assessment, many of its provisions are suitable guidance for judging and making agreements on the equivalence of standards. Although the language refers only to conformity assessment and to agreements between countries, inference can be made to standards and the private sector. The following provisions constitute a useful framework for the ITF equivalence tool.

From the Foreword, the following applicable statements are noted:

1 The Benchmark for Standards is proposed to replace the IFOAM Basic Standards v.2005, and is now intended to be requirements for setting organic standards, not standards in themselves).

- Import requirements should be based in the principles of equivalence and transparency as set out in Principles for Food Import and Export Inspection and Certification.

<u>Section</u>	<u>Provision</u>
5.7	The importing country considers and determines whether the country's measures meet the importing country's requirements. Any decision must, however, be made on the basis of objective criteria.
5.10	A country entering into discussion towards an equivalence agreement should be prepared to facilitate assessment and verification activity both before and after conclusion of the agreement.
7.16	As a first step in the consultative process, the importing country should make readily available the text of its relevant control measures and identify the objectives of these measures.
7.17	The exporting country should provide information that demonstrates that its own safety control system achieves the importing country's objectives and/or level of protection as appropriate.
18.	The development of equivalence agreements is facilitated by the use of Codex standards, recommendations and guidelines by both parties.
19.	To facilitate the consultative process, information should be exchanged as appropriate, on (a) legislative framework, including the texts of all relevant legislation, which provides the legal basis for the uniform and consistent application of the food control system that is the subject of the agreement.
20.	Countries may wish compare side-by-side tables to organize the above-mentioned information and identify differences in measures/requirements.
21.	The importing and exporting countries should identify a process for jointly considering differences in measures/requirements.
22.	Participants in the agreements should be able to a) satisfy themselves and verify that equivalence continues to exist after conclusion of an equivalence agreement, and b) resolve any problems identified during audit and verification.
28.	Participants in the agreement should agree to procedures for terminating the agreement, in case either party is not satisfied that the terms of the agreement are being met.

Analysis of the provisions with respect to the ITF Tool:

- Some of the provisions above refer to the process of making an agreement, and therefore go beyond the process to judge equivalence of two sets of standards. The main purpose of the ITF tool is to facilitate an equivalence decision, but it is deemed appropriate for the tool to provide some guidelines for cases in which a formal agreement is made.
- Elements of these provisions such as provision of relevant texts, side-by-side comparisons, processes for jointly considering differences in measures/requirements, and verifying equivalence after the conclusion of an equivalence agreement have been employed in both government and private processes for equivalence of standards. Examples: (i) The EU/US negotiation, although it did not result in an equivalence determination, employed side-by-side comparisons of the production and processing requirements in the two regulations; (ii) The government of Japan includes in its equivalence determination for the US NOP, a requirement for the USDA to notify MAFF of any changes in the US program; (iii) The IFOAM procedure for approving

other standards includes a procedure to notify the applicant of the results of the assessment, and for the applicant to provide feedback.

Therefore, a tool in this CAC 34 framework also reflects existing practices in the organic sector.

- For requirements on standards, the scope of products and processes in the equivalence assessment is additionally important and should be addressed in the ITF tool.
- There is no explanation or guidance here for what types variations of the exporting country standard from the importing country standard can be considered and allowed. In the private system, the IFOAM process includes “criteria for variations”, which can be a useful element of a tool for equivalence.
- The requirement in 18) above is not known to have played a strong role in the organic sector equivalence determination with respect to CCA/GL 32, *Guidelines for the Production, Processing Labeling and Marketing of Organically Produced Food*. For example, it appears not to have played a prominent role in the EU/US negotiations, nor in the EU determinations of third countries under article 11.1 of EEC 2092/91. However, the new /EU regulation 832/2007 calls for equivalence assessments to take into account CAC/GL 32. Whether and how the Codex guidelines will be used in equivalence assessments remains to be seen. Although internationally agreed in the Codex process, CAC/GL 32 contains details that are not addressed by some countries in their own standards. For example, the US NOP does not contain many of the detailed provisions of CAC GL 32 in regard to animal husbandry such as housing conditions, requirements to source manures from organic holdings and prohibition of any manure from factory farming. It can be questioned whether CAC GL 32 remains appropriate and if its next revision should improve its capacity to function effectively in its role as a practical international guideline. Best practices that include prescriptive details may not be such a useful starting point for countries that are developing their regulations or negotiating equivalence.

Other Resources and Considerations

The ITF also requested that the tool make reference to:

- relevant decision criteria from other sectors
- the experiences from government to government equivalence experiences in the organic sector
- the IFOAM system to approval organic standards

Decision criteria from other sectors were not used for this tool. Although equivalence agreements and related criteria were identified from other sectors such as in accounting practices, veterinary products and electro-technical equipment, they are based on risk assessment and/or specific technical parameters, and were deemed not relevant to this project.

Experience from government-to-government equivalence in the organic sector² was taken into account in the tool development. For example, the tool allows that full equivalence is not always achievable and that a possibility to specify exceptions should be built in. This is based on examples from both the governments and the private sector. Taking the government example, the Government of Japan in its letter of equivalence determination addressed to the NOP excepted three NOP-approved synthetic substances, asking the USDA to “To take necessary action to prevent the use of the following substances in organic products, which

² The experience was investigated in the paper, *Experiences of Equivalence and Recognition Mechanisms in the Regulation of Organic Agriculture* (5th meeting)

will be exported to Japan”³. In the private sector, some of the IFOAM Accredited Certification Bodies have specified exceptions in their multi-lateral agreement with other IFOAM Accredited Certification Bodies. The multi-lateral agreement uses the IFOAM Basic Standards as the reference. These exceptions were made when a specific standard used by the certification body was more detailed and/or strict than the corresponding requirement of the IBS, and the certification body wished to maintain its own requirement when dealing with products certified by another body.

The IFOAM system was taken into account, particularly “criteria for variations” which were incorporated into the Tool. IFOAM uses these criteria when approving organic standards as equivalent to the IFOAM Basic Standards. IFOAM compares the applicant standard to the IFOAM Basic Standard and identifies the gaps. The criteria for variations are then employed to analyze these gaps and determine if the variations in the applicant standard can be justified. Table 2 lists these criteria. If one or more of the criteria are met, then a specific standard can be judged as meeting the objectives of the IBS even though it varies from the IBS. So this aspect of the tool can support and shape the process to decide whether objectives are met despite differences.

IFOAM believes that an organic production standard, when considered as a whole, can be greater than the sum of its parts. Therefore, IFOAM has also included measures to review and consider the whole applicant standard in relation to the IFOAM Basic Standards. The comprehensive picture of how the standards are both alike and different from one another is obtained by employing the matrix that is explained in Annex 3A and provided in the accompanying template, Annex 3B⁴. This comprehensive overview is included in Table 1 Step 6.

For further information on the IFOAM system for recognizing organic certification standards, see Annex 2.

Tool for Equivalence Assessment

General Description and Rationale

This Tool is a synthesis of the mechanisms and processes that government and private sector actors in the organic sector have used for judging equivalence. These mechanisms and process are consistent with and probably influenced by the equivalence frameworks for equivalence in WTO TBT and Codex Alimentarius. The WTO framework – equivalence based on fulfillment of objectives – is used for the tool. All provisions of CAC GL 34 deemed relevant were also incorporated into the tool.

Scope and Use of the Tool

This tool can be applied in either the government or private sector. Although it is formatted in the sense of a unilateral equivalence assessment of one standard with another, it could be suitably adapted to bilateral or even multilateral negotiations. It may also be used for specific organic equivalence agreements or as a tool within the context of more general bilateral trilateral, etc. trade agreements between countries. In the private sector, it can be considered by IFOAM as a reference for further developing its process to approve other standards. It

³ These are: (i) Alkali Extracted Humic Acid; (ii) Lignin Sulfonate (iii) Potassium bicarbonate (re. Letter from Ministry of Agriculture, Forestry and Fisheries, Japan to the USDA, 6 February 2001).

⁴ Annex 3B is an Excel spreadsheet document which accompanies this paper.

can also be used by other standards setting bodies (including certification bodies with their own private standard) for recognizing other standards. The use of a common tool by governments and private standards-setting bodies to recognize private standards can especially enhance access to markets by producers and certification bodies operating in countries where there no regulation of organic production, processing and labeling.

Terminology

In the following discussion, the term “reference standard” means the standard that constitutes the basis of the equivalence assessment and “evaluated standard” is the standard for which a determination of equivalence with the reference standard is sought.

It should be recognized that governments and private stakeholders may have legal requirements and other obligations to constituents and stakeholders that precluded them from employing all elements of the tool. Nevertheless, parts of the tool may be applicable. The tool and its rationale may also serve as a resource for further developing regulations and procedures to foster equivalence.

Features of the Tool

Features of the of the tool include:

Clarification of Objectives: The tool requires that the objectives of the standard are specified at the beginning of the assessment process. In cases where the objectives are not clearly differentiated in the standard itself there should be a process to identify objectives based on the content of the standard. The “common objectives” for production and processing identified in the ITF paper, *Common Objectives of Organic Standards Systems* (6th meeting), are included as a table in the tool, as they might assist in the process of identifying objectives.

Specification of the Scope of the Standard: The boundaries for what is going to be considered equivalent are clearly established.

Legal context of the standards: In the case of governments, other legal texts that are relevant to the standard are disclosed.

Comprehensive standards comparison: Side-by-side comparison of the details of the standard are the norm in equivalence assessment. The tool include this comparison, but it also includes taking measures to view the evaluated standard as a whole against the reference standard as a whole. These measures are included based on the organically-minded premise that a whole organic standard may be greater than the sum of its parts. The tool provide a sample matrix for making both a side-by-side and comprehensive comparison, which is also useful for documenting and managing the dialogue in the assessment process (See Annex 3).

Structure for the dialogue about equivalence: Although meeting objectives is the primary focus of the assessment, dialogue on other matters should be undertaken and weighed in the decision making. In cases where gaps have been identified, there should be opportunity to

- demonstrate how other provisions of the evaluated standard provide outcomes consistent with a particular standard.
- demonstrate that the evaluated standard meets one or both of the international standards (not really standards but guidelines), that is, Codex Alimentarius and IFOAM
- consider legitimate reasons why the evaluated standard is different from the reference standard, or even from the international standards, but still meets objectives. These could be

conditions where climate, geographical, technical problems as well as economic, regulatory or cultural factors rationalize a variation from the reference standard. The tool provides a framework of “criteria for variations” for this discussion.

- consider how the applicant standard when considered as a whole (including where it goes beyond the reference standard) meets the objectives of the reference standard.

Transparency: The USDA equivalence procedures include a policy statement that “U.S. equivalence determinations will be transparent, enabling all interested parties and the public at large to understand the basis for U.S actions.”⁵ Transparency can build trust among all affected stakeholders and enable learning about equivalence processes, which can foster more equivalence. This tool includes in procedures for notification and for public availability of documentation about nature and scope of the equivalence and the equivalence process. However, creating transparency and responding to the results of it can be very time consuming and burdensome on parties engaged in equivalence assessments. It is recommended that the ITF discuss and agree on guidelines for optimizing transparency.

Table 1: Steps

Definitions:

Reference standard: The standard that constitutes the basis for an equivalence evaluation.

Evaluated standard: The standard for which a determination of equivalence with the reference standard is sought.

Codes:

R: Owner of the Reference Standard

E: Owner of the Evaluated Standard

#	Step	Who	Outcome
1.	Submit standard and specify scope (geographic and products/production/processing) of the evaluated standard for which equivalence assessment is requested	E	The basic document is provided and boundaries of the evaluated standard are understood “up front”
2.	Specify objectives of the reference standard and the evaluated standard	R E	The objectives of each standard are known.
3.	Specify which information in the equivalence process will be publicly available and not.	R	The degree of transparency is established and known to the parties engaged in the equivalence discussion
4.	In the case of governments, disclose all related legal texts and explain their relationship to the standard.	E	Impacts of related texts on the standard and its objectives are known. (e.g. if the standard refers to another legal text)
5.	Issue public notification that a standard will be assessed for equivalence.	R	Transparency of the undertaking.
6.	Comprehensively compare the evaluated standard (or relevant parts thereof) with the	E	The detailed basis for the equivalence assessment is

⁵ NOP 5004, Equivalence Determinations Procedures, January 5, 2007.

	reference standard, and identify both the gaps and the additional requirements of the evaluated standard. In the case of governments, include consideration of related legal texts.		established. (Gaps are the focal discussion points and additional requirements help to determine if objectives are achieved)
7.	Evaluate the comparison, give feedback and invite written response to feedback which: <ul style="list-style-type: none"> • corrects errors and omissions • points out where the evaluated standard meets either or both of the international “standards”, Codex and IFOAM.. • addresses criteria for variations (see Table 2) • demonstrates how other provisions of the evaluated standard provide outcomes consistent with the standard or objectives. • comments on how the standard when considered as a whole meets the objectives of the reference standard. 	R	Refinement of the assessment and moving it from conformity towards an equivalence determination.
8.	Respond to the evaluation	E	Same as above.
9.	Evaluate response ⁶ with respect to the objectives of the reference standard,	R	Reduction of barriers to the equivalence from the gaps.
10.	Make a preliminary decision	R	
11.	Issue public notice of preliminary decision and invite public comment (and in the case of governments notify WTO TBT)	R	Transparency of preliminary decision and opportunity for stakeholder input.
12.	Review public comments and issue final decision.	R	
13.	Communicate the final decision to the owner of the evaluated standard, including requirements for notification of changes, and right to reassessment and/or termination of the agreement, and request approval.	R	Measures to address the maintenance and integrity of the equivalence.
14.	Consent to the requirements for equivalence.	E	Same as above
15.	Make final decision publicly available.	R	Transparency of final decision.

Table 2: Criteria for Variations in Standards⁷

⁶ The evaluation and response may require several cycles before an equivalency decision is made.

⁷ Source: IFOAM Policy 42

There may be conditions where climate, geographical, technical problems as well as economic, regulatory or cultural factors rationalize a variation from the reference standard. The variations are to be achieved without prejudice to fair competition, consumer trust in organic and international harmonization necessary for international trade. The need and necessity for the variation shall be established on at least one of the following:

a. Climatic, geographical, structural conditions prevent effective application of the IBS⁸ requirement; or compliant methods to the expected requirement of the IBS are not achievable or feasible;

b. The application of an IBS requirement would prevent the further development of organic agriculture;

c. The application of an IBS requirement would seriously contradict generally accepted religious or cultural beliefs

d. The application of an IBS requirement would prohibit compliance with legal requirements or legitimate sector regulations

e. The application of an IBS requirement does not meet the commonly agreed ‘state of the art’ of the organic movement in that region due to a different historical development of a variant practice which has been functioning for many years.

Table 3: Common Objectives for Organic Standards Systems⁹

- Protecting and enhancing soil quality
- Minimizing or avoiding use of synthetic chemical fertilizers, pesticides and fungicides
- Protecting and enhancing biodiversity
- Avoiding pollution
- Responsible use of other resources (e.g., soil water and air)
- Responsible treatment of farm animals
- Prohibiting use of other technologies (biotechnology and irradiation),
- Planning for (management plan) organic production,
- Verifying (certifying to) all of the above (this includes use of organic seeds, auditing, traceability of products and labeling for the market), and
- Maintaining organic integrity in the processing systems used for organically produced products

Complimentary actions to the Equivalency Tool above

This paper has included some points which are highlighted as recommendations to the ITF.

⁸ IBS: IFOAM Basic Standards

⁹ From the ITF paper, *Common Objectives of Organic Standards Systems* (6th meeting). This is an example derived from research, but not formally established through a stakeholder consultation process.

Recommendation 1: The ITF may consider, through its members, to make a recommendation for the next review of the Codex Alimentarius Commission CAC GL 32, *Guidelines for the Production, Processing, Labeling and Marketing of Organically Produced Food*. If and when CAC GL 32 is reviewed, members could ask to examine whether a) the production and environmental objectives of CAC GL 32 are sufficiently clear, and b) the details of the document are at the optimal level, relative to its use as an international reference norm for equivalence (which, for example, the EU Commission has now designated it).

Rationale: The CAC GL 32 is contains many prescriptive details, particularly in the section on animal husbandry. The document may be more useful in the process of equivalence determination, if it were more oriented toward describing what organic standards should achieve. It could also benefit from having a clearly defined set of principles and objectives from which specific requirements are then drawn.

Recommendation 2: The ITF could recommend guidelines to optimize transparency in the establishment of standards and conformity assessment systems and also in the negotiation among actors of agreements that will affect trade in organic products.

Rationale: As observed in the paper, "Experiences of Equivalence and Recognition Mechanisms in the Regulation of Organic Agriculture" (5th meeting) and highlighted above in "Features of the Tool", the decision criteria and the logical processes for decisions on equivalent are not always transparent. However, the burdens of providing transparency may delay and even block assessment and determination of equivalence. It seems that this trade-off also could be applied to other processes of interest to the ITF, such as standards setting and recognition of conformity assessment. The ITF's objectives could benefit from shared understanding of and guidelines for optimizing transparency.

ITF GLOSSARY

Term	Definition	Reference	Comment
Standards	Document approved by a recognized body, that provides for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method.	WTO/TBT	<u>Note:</u> The recognized body can be any constituency.
Technical Regulation	Document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method.	WTO/TBT	<u>Note:</u> technical regulations can refer to, or be based on, standards.
Conformity Assessment	Any activity concerned with determining directly or indirectly that relevant requirements are fulfilled.	ISO	
Requirements for Conformity Assessment	Any procedure or criteria used directly or indirectly to determine that the relevant technical regulations or standards are fulfilled.	ISO modified	This could include requirements on the body itself.
Harmonization	The process by which standards, technical regulations and conformity assessment on the same subject approved by different bodies establishes inter-changeability of products and processes. The process aims at the establishment of identical standards, technical regulations and conformity assessment requirements.	WTO modified (WTO defines “harmonized standards”)	
Equivalence	The acceptance that different standards or technical regulations on the same subject fulfill common objectives.	ITF	
Recognition	Arrangement (either unilateral, bilateral, or multilateral) for the use or acceptance of results of conformity assessments.	ISO Modified	

A N N E X E S

Annex One

This annex lists the Criteria for the assessment of solution and includes analysis of how the the Tool for Equivalence of Organic Standards and Technical Regulations relates to the Criteria.

Strategy on solutions for harmonizing international regulation of organic agriculture

2.2 Criteria for the assessment of solutions

With these broad goals identified we need to not only refine them but also consider what model or combination of models might achieve them. Reviewing the problems defined, the solutions raised in the discussion to date, the tools available and the characteristics of the organic trade described by Courville and Crucefix (2003) it is possible to propose the following broad requirements for the development and implementation of a harmonized regulatory system in the organic sector.

Overall the model should:

1 Provide for continued growth of organic agriculture and maintenance of its principles.

but more specifically be guided by:

Analysis: The overall purpose is maintained by the Tool. There are provisions both for flexibility and also for control by reason of objectives and criteria for variations.

2 Access to markets with minimal bureaucracy

The model should aim to provide access to all markets based on one inspection and as far as possible one certification decision. This is a common and expected aim of most harmonization efforts from which flows the need that the standards, inspection procedures and oversight can be seen to be the same or equivalent. By this means the model should remove unnecessary technical barriers to trade and in addition should in part reduce duplication of effort in rule setting and decision-making

Analysis: The tool provides a mechanism that enhances the potential of this approach.

3 Fair competition between operators

This is another essential and expected criterion that should guide the development of a harmonized model. Although this is a common aim, its achievement in bi- and tri-lateral agreements is limited only to the participating countries or bodies. If our aims are to provide for fair competition amongst operators across the world, then bi- or tri-lateral negotiated agreements would seem inadequate. On the other hand bi- or tri-lateral agreements may be seen as a practical way of proceeding in the absence of a broader agreement. The Rome ITF meeting emphasised that 'fair' should mean level playing field and not be allowed to lead to protectionist measures.

Analysis: The Tool can be applied also between private standards-setting bodies (and CBs that engage in standards setting), and therefore is non-discriminatory and scale-neutral with respect to users. It is purposefully designed to accommodate regions where there are no regulations or governments who wish to negotiate equivalence of their regulations.

4 Adequate and consistent consumer protection and trust

This is a basic objective with the same limitations in relation to bi- and tri-lateral agreements.

Analysis: The objectives-basis for the determination of equivalence should be sufficient to ensure consumer trust. The ITF review of consumer research established that consumers are probably not interested in the details, but only in the overall ideas about organic agriculture.

5 Sensitivity to different biophysical, socio-economic environments

This requirement addresses the need not only for sensitivity to different agricultural environments but also to stage of development of organic agriculture (which impacts on production standards), and to the institutional, legislative and economic situation of any country which in turn may impact on control systems and oversight. For example any model that required for its functioning, full legislation on organic agriculture and labeling in each territory would immediately exclude a good many participant countries. The third country recognition procedure of the EU Regulation is an example of this problem and the recently published EU Action Plan for Organic Food and Farming recognises this (European Commission, 2004).

Analysis: This Tool covers situations where there is no regulation and also is sensitive to different agricultural environments and stages of development of organic agriculture. This is the profound strength of this tool compared to the current situation.

6 Stakeholder support and involvement.

The issues of mutual trust and feelings of engagement are important here. Like it or not there are feelings of mistrust between private-private bodies, private-public and public-public bodies involved in the regulation of the organic sector. Additionally there exists the dominance of the import markets over the export suppliers. If a new regulatory model is to be truly respected by producers, private control bodies, governments and consumers, it must seek involvement from all such parties.

Analysis: This tool provides for open and transparent communication between the negotiating partners and with other stakeholders in the end stages of the equivalence process. The tool begins to address, but does not neutralize the dominance of the import market over the export suppliers, so the fundamental problem remains. But that problem transcends the organic sector.

7 Take account of national sovereignty and market choice

Governments have a responsibility to serve and protect their constituency and this must be respected. Likewise there is a legitimate place for private companies to provide certification services, which may involve the setting of higher standards if there is a demand for such a service, or for buyers (whether at consumer level or trade level) to insist on higher standards to be met. At present this results in 'barriers' to trade. A new regulatory model must address this anomaly.

Analysis: The Tool provides flexibility and discourages barriers based on protectionist ideas. However, no Tool for equivalence can guarantee protection from the special interests, and they will always be with us.

8 Transparency of operation and decision-making

Maximum transparency of operation and decision-making and provision of information is required to engender mutual trust and respect for any objective regulatory system.

Analysis: This Tool offers transparency in the preliminary judgment, but not necessarily to all the machinations of the equivalence dialogue. The ITF should comment on this.

9 Led by principal trade policy provisions

The WTO/TBT principles of reference to an international standard and recognition of equivalence where similar objectives are being met will be central to the establishment of a new regulatory system.

Analysis: The fulfillment of this provision is obvious in the logical development of the Tool. However, the judgment of whether similar objectives are being met in the organic sector cannot be quantified and must be ascertained by qualitative analysis.

10 Benefit to producers and consumers and the organic market as a whole.

The regulatory systems' principal clients are the organic producers and consumers. All other participants may be important components, whether government or private sector control or accreditation bodies, but they are, in the end, just service providers.

Analysis: The ultimate benefits to individual actors are realized in not only in the slice of the pie but the growth in the size of the pie. For actors overall, the growth and development of organic markets worldwide will improve the position of the organic sector in the agricultural sector, by any means of measurement. The overall aim is to institute not only organic agriculture but also organic markets worldwide. It is therefore a worthwhile effort to pursue equivalence and harmonization in the interest of all producers and consumers, no matter if they are in Burkina Faso, the Philippines, or Denmark.

IFOAM Approval of Certification Standards Based on the IBS

Purpose

The purpose of this policy is to set the procedures applicable for the approval of certification standards by IFOAM in order to

- acknowledge that organic certification standards may vary depending on local conditions or product specific needs
- improve transparency between different organic standards
- increase the accessibility to the IFOAM Organic Guarantee System by including several different certification standards (private or governmental) that are equivalent with the IBS
- facilitate global acceptance of organic products certified under different systems.

IFOAM acknowledges that certification standards from different regions or for different product categories may vary to some extent. Standards reflect local conditions such as climate, cultural background, the stage of development of organic production or product specific needs, and the historical development of the standard itself. These specific conditions provide justification for standards variations, as long as the standards are based on the same understanding and commonly agreed principles of organic agriculture.

The IFOAM Basic Standards (IBS) are developed in line with a code of good practice for norms setting; they mark the baseline that differentiates organic from conventional production systems. The IBS however are neither intended nor eligible to be used as a certification standard. Rather, they provide a framework for the development of organic certification standards adapted to local or regional conditions or product specific needs.

Based on this understanding IFOAM provides the following policy and procedures applicable for the approval of certification standards by IFOAM.

Policy

A General

1. There is one IFOAM Basic Standard, which differentiates organic from conventional production. The IFOAM Basic Standard serves as reference document for IFOAM to approve different organic certification standards.
2. An IFOAM approved certification standard (which may be either regional or product specific)
 - either complies with the IBS, as in the case of standards reviewed under the IFOAM Accreditation Program, or
 - is equivalent because it is justified under section B
3. An IFOAM approved standard may have a different scope and structure than the IBS; it does not necessarily cover all areas the IBS includes (e.g. aquaculture, wild harvested products, animal husbandry). However, a standard can only be approved in its entirety.

4. An IFOAM approved standard must have been developed in line with a documented standard setting process; that includes an open stakeholder consultation.
5. The IFOAM approved standard may not include IFOAM in its name.¹⁰
6. A certification body (CB) certifying against an IFOAM approved certification standard automatically fulfils the standard requirements of the IFOAM Accreditation Program.
7. IFOAM may decide on a fee schedule for application and approval of certification standards based on the IBS.
8. IFOAM lists approved certification standards in its 'public register of approved certification standards'.
9. Approved standards are periodically re-evaluated.
10. In order to protect IFOAM's integrity, IFOAM reserves the right to withdraw the approval status for a certification standard at any time.

B Process to judge equivalence

Equivalence is based on results of evaluation of variations and assessment of the full set of standards.

Criteria for evaluation

Standards submitted for approval that are not compliant to the IBS shall be evaluated. The following criteria serve as guidance for the objective evaluation of variant certification standards. They describe under what conditions variations to the IBS may be acceptable.

(1) Need and necessity

The necessity of the variation to the IBS may be justified by at least one of the following conditions:

- a) Climatic, geographical, structural conditions prevent effective application of the IBS requirement; or compliant methods to the expected requirement of the IBS are not achievable or feasible;
- b) The application of an IBS requirement would prevent the further development of organic agriculture;
- c) The application of an IBS requirement would seriously contradict generally accepted religious or cultural beliefs;
- d) The application of an IBS requirement would prohibit compliance with legal requirements or legitimate sector regulations
- e) The application of an IBS requirement does not meet the commonly agreed 'state of the art' of the organic movement in that region due to a different historical development of a variant practice which has been functioning for many years.

A variation that is not justified by the above is considered a deficient variation.

(2) Definition of the region and/or conditions applicable (scope)

Variant standards must specify the conditions and/or the geographical scope under which they will apply.

(3) The variation does not violate the Principles of Organic Agriculture

Basis for decision

The outcome of the evaluation of variations is the general basis for decision. Furthermore a certification standard:

¹⁰ (See Policy for the use of IFOAM's name, logo and seal" for options to communicate that a standard is approved by IFOAM.)

- may be judged equivalent if it includes requirements that exceed those of the IBS and, on balance, these compensate for identified deficient variation(s).
- However, a certification standard including variations may only be judged equivalent if it enforces practices that clearly distinguish organic from conventional production and processing practices.
- A certification standard may not be judged equivalent if the number or nature of variation(s) is unacceptable.

Procedures

IFOAM defines detailed procedures¹¹ based on the general procedures given below.

Steps	Action	Actor
1	Application for approval; application follows a designed format	Applicant
2	Evaluation	SC
3	Review and final recommendation	NMC
4	Final decision	WB
5	Annual report of changes	Applicant
6	Assessment of annual reports	NMC
7	Confirmation of approval	NMC
8	Reapplication (every third year) following the application procedure	Applicant

This policy merges and replaces policy 25 (policy on variations in standards) approved by the GA, September 2000 and policy 42 (IFOAM approval of other standards) approved by the WB, September 2001; annex 2 of policy 42 approved by the WB May 2002.

Approved by the WB, 15 March, 2006

¹¹ Detailed procedures shall be established and approved by the NMC

ANNEX THREE A

Explanation of Sample Form for Managing Equivalence Assessment Process.

(The Form Itself is Annex 3B, which is a separate Excel File)

Matrix Tool for IFOAM Approval of Other Standards

Preface

The matrix was developed based on the following (see also Terms of Reference):

The Tool should provide for an overall picture of how the applicant standard (app-standard) compares to the IBS. It should provide overview where the

- app-standard is in good alignment with the IBS
- app-standard does not meet the IBS
- contains requirements that go beyond the requirement of the IBS.

Matrix should provide for a simple system to quantify the comparison however the matrix itself should not include any “weighting” of sections or subsection as being more important than others.

Architecture of the matrix

The attached matrix tool is created as an excel file as excel provides best possibilities to hide and unhide information as needed. As the whole process of approval of other standards involves several persons and different bodies the file provides for the comprehensive and transparent inclusion of all relevant information (decisions, arguments, follow up etc.).

Charts

Standards chart

The first two columns (column A, B) list the IBS standards beginning with section B 2.

Organic Ecosystem to section 8. Social Justice; the first column includes the IBS numbering system only, the second IBS standard wording.

In the third column (column C) the respective app-standard requirements can be inserted.

In the following four columns (column D to G) the outcome of the comparison evaluation/assessment of the app-standard is indicated by categories. For an easy (visual) understanding these categories are marked with different colors according to the table shown below (categories are based on policy 42 and on the experience gained with applying the AOS standard into the matrix):

Assessment categories

●	accepted (compliant/equivalent)	App-standard requirement is considered as compliant or equivalent
○	not accepted (deficient/not addressed)	App-standard is neither accepted as compliant or equivalent nor accepted as variation
●	not yet discussed (only interim)	After finalizing the procedure this category does not exist any longer
○	accepted variation	Following policy 42 standard difference is an accepted variation
●	exceeding IBS requirements	App-standard goes beyond IBS: ● indicates that app-standard requirement is exceeding (more restrictive) IBS standard requirements
○	issue not addressed by IBS	○ indicates that the scope of the app-standard is broader.
Technical information: <i>Please note that the colored points are created in “Arial black” bold type, press a simple small o. Color can be changed by choosing the color icon. The matrix chart has already four formatted columns in Arial black bold.</i>		

In the last column (column H) comments and rationales may be submitted.

Using rows and columns:

Headings of IBS chapters and subchapters have one row each (e.g. 2. Organic Ecosystems, 2.1 Ecosystem management) with gray background.

Standard requirements have one row each for each single standard requirement (e.g. 2.1.2 Clearing of primary ecosystem is prohibited) with light blue background.

In case a requirement is discussed and arguments are exchanged between the applicant, SC and IOAS a new row can be used to document the arguments exchanged (information rows). For a better overview added rows for information should use another type color (blue) with white background (standard row).

Arguments of the SC and IOAS should be inserted in the comment column (information row) with white background).

Arguments or points of clarification of the applicant should be inserted in the app-standard column as these arguments belong to the app-standard (information row) with white background).

As the SC has the responsibility for the final assessment, its decision and rational (final or current decision) should be documented in the comment column in the standard row with light blue background (not in the information row).

Description for use

Each involved body and the applicant may use the same file and may feed in their information. The hide and unhide function of excel provides the possibility to condense step by step the information and ‘judgement’ without losing or deleting any detail. Transparency of decisions is achieved in any cases, information can be unhidden again.

When all other rows have been hidden the matrix shows only the headings of chapters (e.g. 2. Organic Ecosystem) and subchapters (e.g. 2.1 Ecosystem Management).

Standard requirements under each subchapter may be viewed by using the hide/ unhide function of excel.

Indicating categories and summarizing

Depending on the outcome of the comparison each standard requirement can be marked with one of the colored marks according to the category template shown above.


Once the evaluation of each standard of a subchapter is completed a summary of the judgement is transferred to the subchapters row.

The figure in brackets after the headings indicates the number of standards in each subsection.

A (2) for example indicates that the relevant subchapter contains two standard requirements. Therefore the summary of the subchapter is indicated by two marks in the subchapters row.

- In case a subchapter contains two standards and both are considered as equivalent/compliant this is shown by inserting two green marks in the subchapters headline row.
- In case one of the two standards is considered not acceptable, the second as equivalent/compliant it is indicated by inserting an orange mark and a green mark.
- In case one of the two applicant standard requirements is more restrictive compared to the IBS the relevant standard is marked purple dark which is also transferred to the subchapters line.

The sum of the green, orange, (black), and dark purple marks can not exceed the number of standards of each section which is indicated by the figure in brackets.

Additional marks can be inserted only in case the app-standard contains issues which are not addressed by the IBS, this is marked by a light purple mark .

Working through chapter by chapter the standards assessment can be carried out each by each. Once the standard rows are hidden completely by using the hide function the summary shows a simple assessment as each standard mark is transferred to the sub-chapter headline row.

This picture provides for the overall summary and shows how the applicant standard compares to the IBS, without showing the details. Decisions and details in any case can be viewed by using the hide/unhide function.

If the overall summary shows for example that in one of the subchapters there is still an orange mark for not accepted and all others are marked green only, the orange marked issue,

the rational and exchanged arguments can be retrieved and understood easily by using the hide/unhide function.

List charts:

For list comparison purposes the matrix provides for 4 additional substances charts following IBS structure.

Chart Appendix 1 Fertilizers and Soil Conditioners

Chart Appendix 2 Crop Protectants and Growth Regulators

Chart Animal Nutrition (prohibited substances in the diet according to IBS 5.6.4)

Chart Appendix 4 List of approved Additives and Processing Aids.

The charts include all substances listed in the IBS Appendices and listed in 5.6.4.

Lists of an applicant standard can be typed in focusing especially on identifying substances which are allowed in an app-standard but not in the IBS.

It may also be possible that substance annotations differ therefore the charts provide for columns to include the annotations in order to get an idea how substances are restricted in each standard if applicable.

Assessment

The outcome of the comparison evaluation/assessment of the app-standard substances is indicated by the same categories used in the standards chart (see explanation above). As this is a substance against substance comparison the exceeding category is not separated into exceeding (more restrictive, ●) or broader scope ○. Only ● is used.

Different to the standards chart the substances charts also do not provide for information rows as for relevant information the comment column may be used.

