

## CURRENT MECHANISMS THAT ENABLE TRADE IN ORGANIC PRODUCTS



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## TRADE ENABLING MECHANISMS

- Compliance
  - adherence to the specific provisions of a governing rule
- Mutual Recognition
  - equally capable conformance assessment bodies
- Equivalence
  - acknowledging that different systems uphold another system's objectives. (can apply to both standards/technical regulations and conformance assessment)

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## TRANSPARENCY

- Access to information on the mechanisms
- Equivalence is feasible only with transparency
- Example: TBT requirement for notification of equivalency agreements.

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## OVERVIEW OF PRIVATE AND GOVERNMENT SYSTEMS

- Private International: IFOAM Organic Guarantee System
  - provides a platform for multilateral equivalence of standards and conformity assessment
- Government Technical Rules/Regulations (Standards)
  - Not formally modelled on a relevant international standard
- Government Requirements Conformity Assessment
  - Modelled on ISO Guidelines (Guide 65)

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## IFOAM ORGANIC GUARANTEE SYSTEM: mechanisms for trade, equivalence and mutual recognition

- Standards
  - Approval of Other Standards
    - a type of equivalence determination for private standards
- Certification
  - Multi-lateral Agreement Among Accredited Certification Bodies (ACBs)
    - (covers standards and conformity assessment)

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## IFOAM ORGANIC GUARANTEE SYSTEM

### Approval of Other Standards

- Acknowledges the need for diversity of standards
- Asks the question, Does the other standard meet the objective of the IFOAM Basic Standard? (examined at several levels of the document)
- Based on written Criteria for Variations
- May create a "family" of related organic standards, which may be judged equivalent.

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IFOAM ORGANIC GUARANTEE SYSTEM

The Multi-lateral Agreement (MLA)

- Equivalence of Standards and Conformance Assessment
- Standards Equivalence: level of IBS
  - additional requirements allowed
- Mutual Recognition of Conformance Assessment: provided through Accreditation Criteria
  - no additional requirements allowed

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IFOAM ORGANIC GUARANTEE SYSTEM

Status of Implementation

- Approval of Other Standards
  - New!!
- MLA
  - Partially implemented
    - Additional requirements
    - Additional bureaucracy
- Impact
  - significant share of trade certified by ACBs , but impact compromised by additional requirements

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Government Mechanisms

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European Union: EEC 2092/91

- Three methods for imports
  - 1. Approval of third countries(Article 11.1)
    - approves third country standards as equivalent and recognizes inspection system (conformance assessment)
    - physical inspection by EU and comparison of standards
    - approval of CBs is only for their work in the third country
    - EU does not approve foreign CBs to work in the EU
  - Mutual Equivalence Determinations
    - US/EU talks and technical assessment

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European Union: EEC 2092/91

- 2. Member State Authorization (the importer derogation)
  - expires at end of 2005
  - member states determine equivalence of standards and inspection/conformance assessment
  - notification of Commission and other member states.
  - Results in license to the importer for products and does not accredit the certifier.

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European Union: EEC 2092/91

- 3. Commission approval of inspection (certification) bodies
  - Member state can assess the third country certification body.
  - The CB is added to Article 11.1 list.
  - Intended for EU Certification Bodies operating in third countries.
  - Little used

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## European Union: EEC 2092/91

- Extent of Implementation
  - eight countries on the Article 11.1 list
    - But significant importing countries are missing
    - Leaves out many developing countries that rely on EU exports
  - most products imported under 11.6 (Importer derogation)

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## European Union: EEC 2092/91

- Transparency
  - Article 14 Committee records not publicly available
  - Article 11.1 Procedure/Criteria for determination of equivalence not found.
  - EU/US equivalency criteria not known
  - Notification of equivalency agreements
    - US complaint in TBT committee

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## United States: National Organic Program (NOP)

- Three Methods for Imports
- 1. Direct Accreditation by USDA
  - provision to accredit foreign certification bodies
  - all certification bodies treated equally
  - creates mandatory recognition among accredited CBs.

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## United States: National Organic Program (NOP)

- 2. Approval of a Foreign Government
  - recognizes the government's conformance assessment system
  - requires certification (compliance) to the US regulation (standards)
  - does not directly accredit foreign certification bodies
  - requires effort on part of foreign government to apply for approval and to supervise CBs to the NOP standards

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## United States: National Organic Program

- 3. Equivalency
  - US negotiates an equivalency agreement
  - Covers both the technical standards and conformity assessment
  - Does not directly accredit foreign certification bodies

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## United States: National Organic Program (NOP)

- Extent of Implementation
  - 42 directly accredited certification bodies
  - 4 approved foreign governments
  - 0 equivalency agreements

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United States: National Organic Program (NOP)

- Transparency
  - National Organic Standards Board: records publicly available
  - Accredited Certification Bodies and Approved Governments posted on website.
  - Documents on equivalency posted on website
  - Procedures and criteria for equivalency determination not found.

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Japan: MAFF Notification 59/60

- Three mechanisms for imports
- 1. Certification by a MAFF Registered Certification Organization (RCO). (registration = accreditation)
  - only RCOs can affix the JAS (organic) Seal
  - Trust Contract with foreign certification bodies enables RCOs to certify the foreign producers and affix the JAS Seal

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Japan: MAFF Notification 59/60

- 2. Certification by a MAFF Registered Foreign Certification Body (RFCO)
  - Requires Equivalence Determination !
  - RFCOs may not certify in Japan
  - RFCOs may certify products in various other countries

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Japan: MAFF Notification 59/60

- 3. Recertification of foreign ingredients by an RCO.
  - Based on past inspection data (usually limited to one year).
  - Special provision for ingredients and do not require the JAS Seal affixed in foreign country.

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Japan: MAFF Notification 59/60

- Extent of Implementation
  - 3 Equivalency Determinations (Unilateral)
    - Australia, EU, US
  - 16 RFCOs
    - From the "equivalent" countries

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Japan: MAFF Notification 59/60

- Transparency
  - Regulation is now better understood. Public information via website.
  - Notifications of equivalency have been made.
  - Criteria for equivalency determinations not transparent

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## INTER-GOVERNMENTAL BODIES

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## CODEX ALIMENTARIUS

- Harmonizing Objectives (from Codex Statutes)
  - promoting coordination of all food standards work undertaken by international governmental and non-governmental organizations
  - finalizing and publishing worldwide standards, together with international standards already finalized by other bodies, wherever this is practicable.

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## CODEX ALIMENTARIUS:

- Organic Labelling Guidelines (Committee on Food Labelling)
  - Guidelines finalized in stages (1999-present)
  - Consistent though not identical with IFOAM Basic Standards (no formal relationship of the two documents)
  - Used as reference for development of government standards (eg Japan)
  - Transparent process
  - No mechanisms for using them to determine equivalence

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## Codex Alimentarius

- Inspection and Certification
  - Draft Codex Guidelines for the Development of Equivalence Agreements Regarding Food Import and Export Certification Systems.
    - Status: moved back to discussion paper stage
    - At issue: should it cover standards/technical regulations also?
    - Equivalence of Sanitary Measures does apply to standards, but not readily transferable to organic labelling

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## ISO Guidelines

- ISO Guide 65
  - General Requirements for Bodies Operating Product Certification Systems.
    - Significant impact on organic certification (conformance assessment)
      - IFOAM Accreditation Criteria based on it
      - EU Regulation requires it
      - US NOP refers to it
      - Japan ???
    - Guide 65 oriented toward product certification, not process certification

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## LIMITATIONS OF THE CURRENT MECHANISMS TO ENABLE TRADE

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## Current State of Organic Trade

- Export/Import is happening, but the trade picture is spotty, and the organic trade is not efficient
- Unequal access

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## Limitations: Government Systems

- 1. In General, Government Systems are Not Formally Based on a Body of International Standards
  - limits design of an approach to equivalence
  - what to do with the informal references to international standards?
    - E.g. EU regulation was unofficially based on IFOAM Basic Standards

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## Limitations: Government Systems

- 2. There are No Precedents in Government Systems for Multilateral Equivalence, and Few Precedents for Bilateral Equivalence.
  - There is not a standard framework for equivalency determination.
  - The nature of organic standards (process and production methods) limits the utility of precedents from other areas.
  - Lack of transparency has an impact here.

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## Limitations: Government Systems

- 3. Government Systems Require Bilateral Equivalency
  - Number of bilateral agreements required is very high
- 4. Determinations of Equivalency Lack Transparency
  - barrier to creating more agreements
  - barrier to enhancing equivalency mechanism
  - may not withstand scrutiny under trade rules

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## Limitations: Private System

- 1. The Private Equivalency Mechanism does not result in total equivalence.
  - The problem of additional requirements (many of which are due to government regulations)
- 2. The Private System (including multi-lateral equivalency mechanisms) is not integrated into the Government Systems.
  - Private system does not officially provide any guarantee to any type of government regulation. (although there are some informal guarantees)

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