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Concept Note

Study of the Potential Impact of Equivalence on Competition Among Operators

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Background

Historically, operators (define in footnote as those actively certified in the system, mainly farmers and processors) and their organizations have played a seminal role in the development and content of standards in the private sector. Consider that the first organic standards in Europe were developed by the Soil Association in 1967 through the work of farmers along with other activists in nutrition and education. In the US, the first standards were developed by California Certified Organic Farmers in the mid-1980s, and the role of producers in this organization is obvious in its name. As organic products came to include items that are processed and traded by manufacturing and handling companies, these operators also became involved in setting standards for their part of the organic food supply chain, often by becoming involved in the original farmer organizations that diversified to include them.

Operators have also strongly influenced the content of technical regulations such as the USDA NOP regulation and EU2092/91. Nearly half of the seats on the US National Organic Standards Board are reserved for operators (in the categories of “farmer” and “processor”). Farmer organizations participate in the civil society negotiations in the case of the European organic regulation. Farmers and their advocates are working in the development of regional standards for East Africa, helping to root the standards in the situation and practice of organic agriculture in that region.

The great benefit of the strong operator participation in organic standards-setting is that the standards are practical and realistic for the regional conditions and situation of farming and processing to which they apply. This aspect of organic standards is essential to the success of organic agriculture and the organic guarantee. It can be good for consumers in that region, who then benefit from standards that can facilitate local organic production and processing.

The resulting standards are so appropriate to the applicable situation, that in respect to markets they also may favor operators located in one region from competition originating in another region where different standards apply. Then, standards acquire another role - that of economic protection to operators- in addition to the more obvious functions of defining organic quality and assuring consumers.

Historically, the function of protecting operators from competition was first manifest in the private sector, where standards setting bodies, comprised mainly of producers, built value into their certification mark often by claiming that their standards were superior to other standards, and thus gaining competitive advantage via the standards. Since national government standards have been instituted, standards have also played a role to limit the organic commerce in a sovereign country to that which can meet the country's standards. Organic products that are verified to meet another government's standards or an international private standard are potentially excluded, because of compliance requirements to the regional or national standard, enforced either through government regulatory or private market mechanisms. Therefore, the compliance requirements to regional and national standards can inhibit organic trade.

But as organic products and markets have grown and developed, so has a strong impetus for broader trade. The impetus arises from potential economic benefit to operators, both producers and processors, in the form of expanded supply sources and markets. But when this impetus collides with the regional and national restrictions, stress builds up in the system. The ITF is interested to ease this stress and enhance trade, primarily through

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exploring mechanisms that will facilitate equivalence agreements on organic standards within and between the government and private sector actors. The ITF is interested to support the development of equivalency agreements that are fair, transparent, and meet clear criteria and common objectives.

While on one hand the ITF is actively exploring these “fair” equivalency mechanisms, it would also like to know the potential impact, both positive and negative, of such equivalency on operators. Even if equivalency agreements are “fair”, detailed technical requirements on an operator in an importing country or regional market that are not required for that operator’s competitors in exporting countries or regions can affect the competitive balance. Can “fair” equivalency agreements nevertheless create “unfair” competition? What balances are at play if equivalency agreements are widely instituted for trade purposes? What are the potential responses of operators to this scenario? And what are the potential impacts of those responses on the organic sector?

The Study

An ITF study will be commissioned to focus on the potential impacts of equivalence on competition among operators. The study will address both sides of the equation – the competitive effects of imports in domestic markets; also the effects of new export markets for finished products and supply sources for operators who handle and manufacture organic products. This issue will be analyzed against the backdrop of the other structural and technological factors and market dynamics that influence competition, e.g. the structure of agriculture, agricultural and trade policy, technical and marketing advances.

Prior to addressing the main question, the study will discuss the concept of fair and unfair competition and illustrate these concepts in terms of organic markets. The study will assume that equivalency is transparent, and based on common objectives and clear criteria.

Further details of such a study would be addressed in the Terms of Reference.