

Organic Standards and Regulations

Pacific Organic Policy Toolkit
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The First Organic Standards Schemes

The Soil Association in England published the first organic standards in 1967. Farmers were invited to register their farms with the Soil Association and sign a declaration that they would abide by these guidelines, a self-certification. During the 1970's several organizations founded by organic farmers in the United States, followed by organizations in Europe and elsewhere, began to develop standards; and then they designed peer-reviewed certification wherein one farmer's compliance with the standards was verified by another farmer. Organic farmers governed associations, performed inspection, served on certification committees and granted use of the organization's certification mark to certified farmers. These schemes functioned mostly for direct sales and short value chains. Consumer trust was natural in direct and short chain transactions in these mostly local contexts, which today remain a valuable pillar of organic commerce. The self-regulating schemes also functioned to protect organic farmers from competition from other farmers whose practices did not qualify for making organic claims in the market. Over time organic markets grew and diversified, global corporations entered these markets, more organic food was mixed and transformed, and some of it travelled great distances through long value chains in the course of national and international trade. In response to this, commercially driven organic certification businesses entered the stage starting in the 1980's. But as the organic market matured and interstate and international organic commerce grew, the private organic schemes were challenged to fully facilitate trade and prevent fraud, thus paving the way for governments to regulate organic standards and trade.

Government Regulation

The first legislation on organic farming, enacted in the 1970's by two states in the United States, Oregon and California, contained only standards. As trade increased across borders of European countries in the 1980's, some governments created full legislation to set standards and control the sector. In 1991 the European Union adopted Regulation EEC 2092/91 on organic farming, which established requirements on organic labelling throughout the European Union. Japan implemented an organic regulation in 2000. The first "enabling" legislation on organic agriculture of the United States was passed in 1990, but it was not until 2000, that a formal regulation was published and then finally enacted in 2002. At the international level, in the Codex Alimentarius Commission¹, discussions on organic guidelines started in 1992 and the first version of guidelines for crop production, marketing and labelling were adopted in 1999, followed by elaborations on livestock and lists of permitted substances. Compelled by new import requirements in the major organic markets, more countries developed organic

¹ An intergovernmental body that develops and maintains international food standards.

legislation and regulation. By 2013 some 88 countries had codified organic standards in regulations although some of these have not yet developed a full program of standards and controls.² As of 2014 organic is the only label category among environmental and social standards schemes for agriculture that is pervasively regulated. Most others are governed by the private sector and civil society.

The reasons for governments to regulate the sector vary. Regulations in countries with well-developed domestic markets (such as in North America, Europe, East Asia, and Brazil) aimed primarily to protect consumers and the industry and ensure orderly markets. European Governments, as reflected in the original 1990 EU Regulation, also saw organic regulation as a means of promoting an agricultural system that produces public goods such as pollution reduction and renewal of biodiversity. Many developing countries have developed regulations that primarily aim for recognition by the governments of major market countries, so that their exports can flow to these countries without the high transaction cost for their producers to fully comply with their standards and conformity assessment requirements. However, this strategy has so far lacked success, except for a few cases in which the European Union recognized some equivalent schemes such as in Argentina, Costa Rica and India.

Nature and Scope of Organic Regulations

Organic regulations vary in several dimensions. At minimum they include standards. These standards always address basic crop and livestock production, processing and product labelling. They may also cover:

- wild collection;
- specialty crop systems such as mushrooms and sprouts, apiculture and aquaculture;
- wine and spirits processing.

Some government organic standards also incorporate requirements for fair labour practices. All standards contain a list of input substances for organic agriculture and processing that are allowed or not allowed.

In addition to laying out the organic standards, a full regulation establishes a system of conformity assessment (certification and accreditation or other forms of oversight). In a few cases (such as Denmark, Finland, Laos) the government directly conducts the certification. But in most regulating countries, government authorities oversee the function of private certification organizations. In many cases the private certification bodies are required to also obtain accreditation from a national accreditation body according to the international certification standard, ISO 17065.

A full organic regulation also addresses enforcement and may include:

² Other countries with fully functioning regulations include Argentina, Australia (for export only), Brazil, Canada, Chile, China, Colombia, Costa Rica, India (for export only), Indonesia, Israel, Malaysia, New Zealand (for export only), Peru, Republic of Korea, Taiwan, Turkey and Ukraine.

- provisions for surveillance;
- complaints procedures;
- penalties for non-compliance;
- provisions for Imports (which are most often permitted on the basis of compliance or an equivalence arrangement with another government).

Most regulations cover products that can be either sold in the domestic market or exported under the government regulatory scheme. However, a few regulations, for example in India and Australia, are tailored exclusively for exported products.

Coexistence of Government Regulations and Private Organic Standards Schemes

Government organic standards and regulations have significant roots in the organic standards schemes that originated and persist in the private sector and civil society. While some government regulations have completely replaced private standards in their jurisdictions, others provide for co-existence. The most notable examples of the different approaches are the USDA National Organic Program regulation in the United States and the European Union regulation (currently in Regulation EC 834/2007 and 889/2008). The USDA regulation prohibits the application of organic standards other than those in the regulation, and the regulation has replaced private standards. The objective of this approach is to create a uniform consumer expectation for organic production and processing and to eliminate all standards-related impediments to commerce in organic products. The approach has achieved these goals. On the other hand, it has been critiqued as impeding innovation and further development of standards, which is often led by the private sector in the context of its proprietary standards and labels. In contrast, the EU regulation only specifies that EU standards must be met but does not prohibit the application of additional requirements under private standards and labelling schemes. Indeed several such schemes have existed in the EU since the advent of the regulation in 1990. With their additional requirements, these schemes pose additional complexity for traders both outside and inside the EU who wish to trade products that are sold under the label of the private schemes. These products are subject to additional reviews and higher transaction costs. The mix of regulatory and private organic standards schemes presents a complex landscape, which organic producers and traders must navigate to participate in value chains effectively.

International References and Resources on Organic Regulation and Trade

The main international references for the development of government regulations on organic agriculture and I are from the intergovernmental Codex Alimentarius Commission (CAC) and the international non-governmental organization, IFOAM – Organics International (formerly the International Federation of Organic Agriculture Movements).

Codex Alimentarius Organic Guidelines

With the aim of facilitating trade and preventing misleading claims in the rapidly globalizing organic market, the Codex Alimentarius Commission (CAC) through its

Committee on Food Labeling (CCFL) began in 1992 to develop guidelines related to organically produced food. The CCFL was assisted by an expert Organic Working Group, consisting of representatives of CAC member states and international non-governmental organizations with observer status in the CAC. In 1999 the CAC published the first Guidelines for the Production, Processing, Labeling and Marketing of Organically Produced Foods, also known as the Codex Organic Guidelines. Guidelines on organic livestock production were added in 2001. Since then, several revisions have been made to the organic guidelines, primarily to refine and expand the lists of substances allowed in organic production and processing. In addition to specifying organic production and processing requirements, the guidelines include basic measures for conformity assessment (inspection and certification) and general provisions on imports of organic food products. The guidelines are intended to serve as a reference for governments in developing regulations for organic food products and to promote and facilitate the international harmonization of organic regulations

IFOAM – Organics International

Since 1972 IFOAM – Organics International has occupied a position as the only international umbrella organization for organic agriculture. It is constituted by a worldwide membership of some 800 organizations from more than 100 countries, which are engaged in organic agriculture and its support. IFOAM - Organics International actively participates in international agricultural and environmental negotiations with the United Nations and multilateral institutions to further the interests of the organic agricultural movement worldwide, and has observer status or is otherwise accredited by the Codex Alimentarius Commission Food and Agriculture Organization of the United Nations (FAO), International Organization for Standardization (ISO), United Nations Conference on Trade and Development (UNCTAD), United Nations General Assembly, and several other intergovernmental institutions:

The [IFOAM Organic Guarantee System](#) is designed to a) facilitate the development of organic standards and third-party certification worldwide and to b) provide an international guarantee of these standards and organic certification. The Guarantee System began with the development and publication of the IFOAM Basic Standards (IBS). This was followed by the development of an international Accreditation Program for organic certification bodies, which is based on a set of IFOAM Requirements for Accreditation of Organic Certification Bodies. The IFOAM Basic Standards (IBS), first published in 1980, historically served as an international framework for standards-setting organizations to develop their organic standards, while also taking into account local conditions. India, the Philippines and other governments used IBS as a basis for their standards for organic production and processing. IFOAM – Organics International publishes two other norms that are based on the IBS and available for use by governments. The IFOAM Standard is a model standard with sufficient detail to use for organic certification and to incorporate in regulations.

Another norm, based on IBS, reflects a shift in emphasis from developing standards to determining equivalence³ among the hundreds of existing private and government standards. Common Objectives and Requirements for Organic Standards (COROS) functions as an international tool to assess the quality and equivalence of organic standards and regulations. It was developed in 2012 by IFOAM – Organics International in partnership with FAO and UNCTAD. Based on this norm, IFOAM publishes the IFOAM Family of Standards, which have been assessed as equivalent to COROS. The vision is that the Family of Standards will contain all organic standards and regulations equivalent to the COROS. Instead of assessing each standard against each other, the Family of Standards can be used as a tool to simplify equivalence assessment procedures for multiple organic standards while ensuring a high level of integrity and transparency. Several governments use the Family of Standards for approval of imported organic products. The Family of Standards also functions as a baseline for IFOAM Accreditation. To facilitate recognition of conformity assessment, IFOAM – Organics International has another tool, the International Requirements for Organic Certification Bodies (IROCB), which it also developed in partnership with FAO and UNCTAD. Policy guidance and a regulation template are also available to governments for developing regulations.

The IFOAM Standard, Accreditation Requirements, and Common Objectives and Requirements for Organic Standards can be accessed [here](#).

Trade Implications of Organic Regulations

By virtue of their legal authority and effect on trade, government regulations have had large impacts on the organic sector. Although international standards and guidelines have enabled convergence of organic standards and conformity assessment worldwide, minor variances can be major barriers to trade of organic products. The plethora of standards schemes in the private and especially the public sector raise transaction costs⁴ for trade and often prevent producers and traders from accessing markets that are governed by foreign standards schemes. A producer seeking to sell products that end up in multiple value chains reaching multiple countries can be required to obtain multiple certifications to various government and/or private standards schemes applicable in the target markets. Likewise, organic certification bodies may need to obtain multiple accreditations if they certify products destined for global trade, raising transaction costs. This constitutes a major obstacle for continuous and rapid development of the organic sector, and especially limits opportunities for small producers in developing countries to sell their products into value chains involving international trade.

³ A determination that certain standards and technical requirements of one country achieve the regulatory objectives of another country. Equivalence determinations and agreements facilitate trade and reduce trade barriers.

⁴ The cost of participating in a market.

Mechanisms for facilitating trade of organic products through equivalence

All countries with significant imports of organic products regulate and control them, including Brazil, Canada, China, all European Union members and EFTA states,⁵ Japan, Republic of Korea, Taiwan, and the United States.⁶ In some countries such as Brazil and China, imports are authorized solely on the basis of compliance with the regulations of the importing country. Most regulating countries facilitate imports under provisions for either compliance or equivalence provisions, with the highest volume of imports attributed to equivalence. Equivalence is based on recognition that the rules of another country, even if different, fulfil the objectives of one's own rules.

Unilateral Equivalence Determinations

The EU and Switzerland have unilaterally recognized certain (and the same) third countries as having equivalent technical regulations and control systems, and list these countries and the terms of the recognition in their respective regulations.⁷ Several other regulating countries have unilaterally declared equivalence of other countries' organic regulations. For example, Taiwan unilaterally recognizes Australia, Japan, New Zealand, and the United States. However unilateral approaches to equivalence are being replaced by bilateral arrangements.

Bilateral Equivalence Arrangements

Bilateral equivalence agreements are largely political agreements that depend on the will and political negotiations of the governments, but are also based on technical assessments. In the organic sector, these agreements (or arrangements as most of them are called) recognize equivalence of technical regulations and the related control systems. The European Union and Switzerland were the first to establish bilateral equivalence in 2002 as part of a general agricultural trade agreement (treaty) on agricultural products. Since then, other relationships have been formalized via the exchange of letters, and they have a different status than treaty agreements, which are subject to ratification processes. It was not until 2009, that another equivalence arrangement was established, that between Canada and the United States, which was virtually concurrent with the implementation of the Canadian Organic Regime. This arrangement was bolstered by a high degree of

⁵ The European Free Trade Association (EFTA) is a common market consisting of four European countries that operates in parallel with – and is linked to – the European Union (EU). EFTA members are Iceland, Lichtenstein, Norway and Switzerland.

⁶ Australia and New Zealand control imports through consumer protection laws rather than specific organic regulations.

⁷ These countries are Argentina, Australia, Costa Rica, India, Israel, Japan⁷, New Zealand, and Tunisia.

political will due to the large volume of trade between the two countries and significant trade barriers that would have arisen for both trading partners in absence of a mutual recognition arrangement. The Canada-United States arrangement gave impetus to other arrangements.⁸

Plurilateral Cooperation and Regionalization

There are some indications for a next phase of equivalence and harmonization entailing plurilateral cooperation (involving three or more countries). The current bilateral arrangements are mostly between a core group of the same countries in different combinations. Most of these arrangements include bilateral working groups to ensure consistent communication and cooperation on the arrangements. The potential of expanding bilateral to plurilateral cooperation among these trading partners includes working jointly to expand arrangements with additional trade partners, further harmonizing and improving standards and conformity assessment systems, gaining efficiencies in managing the equivalence arrangements, and assessing and addressing the implications of the equivalence arrangements for developing countries. Plurilateral cooperation on organic trade is also evident in economic regionalization initiatives, most notably the recent formation of the ASEAN Economic Community (AEC). The formative work includes a blueprint for recognition of organic standards and regulations among the ASEAN member states. It includes a harmonized regional organic standard that is benchmarked by member states, and a scheme for recognizing conformity assessment.

⁸ Currently, the following bilateral arrangements have been fully implemented:

- European Union-Switzerland (2002)
- Canada-United States (2009)
- Canada – European Union (2011)
- European Union – United States (2012)
- Switzerland-Canada (2012)
- Japan-United States (2013)
- Japan-Switzerland (2013)
- Canada-Costa Rica (2013)
- Korea-United States (2014)
- Canada-Japan (2015)
- Korea-European Union (2015)
- Switzerland-United States (2015)
- European Union- Chile (2016)