



Global Organic Market Access  
a project of FAO, IFOAM and UNCTAD

10042011db

**Terms of Reference**  
**For a Study on Trade Agreements as Potential Mechanisms for Mutual Recognition of National Organic Regulatory Systems**

### **Background**

A paper prepared for the ITF in 2005 raised the trade agenda and potential of trade agreements to facilitate agreements on equivalence of organic regulatory systems between or among governments. The ITF also noted in 2006 that the only bilateral equivalence arrangement to facilitate trade of organic products was between Switzerland and the European Union, which is part of a broader regional agricultural trade agreement. Subsequently, the Steering Committee of the ITF discussed this issue further and agreed that a study on this topic should be prepared. However, the study was not assigned high priority; it was considered an investigation for the longer term, not related to the immediate results that the ITF was targeting. The GOMA project follows up on the results recommendations, and in this case, the unfinished business of the ITF. The trade agreement study was included in the GOMA planning and has since been noted by Norad in the Year One Review as an interesting project.

### **Aim of the Study**

The overall purpose of this paper is to understand the potential of trade agreements as mechanisms for forging agreements on equivalence of organic regulatory systems.

### **Elements of the Study**

- A general overview and characterization of trade agreements – bilateral, regional and global, with an emphasis of agricultural trade agreements. Description of what they accomplish and how the different types of trade agreements are decided.
- Description of how trade agreements accomplish ancillary purposes, e.g through annexes, protocols on TBT etc. with examples.
- Research and results on whether ancillary agreements on equivalence have been attached to or embedded in trade agreements. For example, reference should be made to the EU-Switzerland Agreement and other relevant protocols on TBT issues.
- Analysis of the risks and opportunities of using trade agreements for organic equivalency, giving consideration to various actors/regions.
- Summary recommendations on trade agreements as mechanisms for equivalence of organic regulatory systems.

## Output and Timeline

The consultant shall deliver a first draft of the study to the GOMA Project Manager by 15 August. The GOMA project may request revisions by 15 September. The final paper should be submitted by 10 October.

## References

- ITF, Objectives of Organic Standards Programs: Exploring approaches to common regulatory objectives, 2005 ( \*See excerpt below)
- ITF, Fifth Meeting Report: 2005

The url to obtain the two documents listed above is [http://r0.unctad.org/trade\\_env/itf-organic/itf5.asp](http://r0.unctad.org/trade_env/itf-organic/itf5.asp).

### \*Excerpt : Strategic Use of the Trade Agenda

Because of the time and energy expended in equivalence negotiations, they are normally based on some sense of the value of the outcome to the trade interests of the countries involved. In essence, organic equivalence will be of interest to countries that have or could have a significant amount of organic trade. The major targets for this would be the large importing regions and countries, the EU, US and Japan. China, India and Brazil as well as a regional economic co-operation bloc such as ASEAN may also be important players.

The current trade agenda presents several strategic options for promoting organic equivalence. At the most general level, this includes the WTO TBT Committee, the Codex Alimentarius Commission (CAC), and the auspices of other multilateral institutions. On a tariff track, it could also include introduction of organic foods as EPP's in the Doha Development negotiations (although it would be late for this). At a bilateral level, equivalence could be negotiated in, or ancillary to, US-EU regulatory cooperation negotiations, the EU-ACP Economic Partnership Agreements (EPAs) and US FTA and NAFTA initiatives.

The WTO's TBT Committee had little discussion on the issue, perhaps because it is not directly responsible for anything but guidance on equivalence as required by the Agreement (harmonization and equivalence are considered important parts of the implementation of the TBT Agreement, but remain largely a laudable objective without little guidance on their specific implementation). However, the Committee's role could be a much more important one with respect to encouraging equivalence, and WTO members could encourage it to produce sector-specific (e.g., organic food and livestock) guidance on equivalence under its own auspices, rather than side-stepping its process in a UNECE-inspired Common Regulatory Objectives (CRO) exercise.

Alternatively, it could give some encouragement, as did the SPS Committee, to a process in the Codex Alimentarius Commission (CAC). With some support from governments and observers, the TBT equivalence exercise could be reintroduced in the CCFICS, this time with evidence from those organic sector organizations accredited as observers and a few leading governments willing to articulate the need for it in the context of organics. Alternatively, the Codex Alimentarius organic standard itself (in the CCFL) could be used as the venue for equivalence determinations through a CAC or Committee –inspired process.

Using other multilateral agreements and institutions for this purpose might also be possible. For instance, a sub-sector-specific agreement on organic livestock could be negotiated under the auspices of the International Organization for Epizootics (OIE).

Bilaterally, the current US-EU regulatory agenda encompasses a Regulatory Cooperation Agenda, to which industry could add organic food if inspired by the prospects of attempting to bridge the final differences encountered in the last round of discussion.

Additionally, the EU is currently negotiating broad agreements with many developing countries, to which they could perhaps request as part of the agreements equivalence on organic produce. The US is also actively involved in a series of free trade agreements that could encompass organic equivalence if there was demand for it there. If not a part of the agreement itself, it could be initiated by a process ancillary to it.

## **Qualifications of Consultant**

### **Expertise**

The consultant must have knowledge and expertise in the following areas:

- International trade policy, particularly regarding strategic uses of trade agendas (such as those elaborated in the citation and excerpt above). Normally, this qualification should be formal training and/or work experience in the field.
- Regulatory systems for import and export of organic products.
- Organic standards and conformity assessment systems.
- work and results of FAO/IFOAM/UNCTAD International Task Force on Harmonization and Equivalence in Organic Agriculture, 2002-2008. [http://r0.unctad.org/trade\\_env/itf-organic/welcome1.asp](http://r0.unctad.org/trade_env/itf-organic/welcome1.asp)

Expertise in all topics above may be embodied in one person, or come from a cooperation between experts.

In addition, the consultant must have strong and proven analytical skills and commensurate skill in organizing and communicating the analysis.

### **Fees**

The fees for this study shall not exceed 10,000 Euro, inclusive of applicable VAT.

### **Agreement**

IFOAM administers the GOMA project on behalf of FAO, IFOAM and UNCTAD.

Therefore, the agreement will be made between the Consultant and IFOAM. The GOMA Project Manager will oversee the study on behalf of IFOAM.

### **Proposals**

Proposals should include a plan for developing the study, qualifications of the principal consultant and any collaborators, and a budget for the study. Proposals should be sent to Diane Bowen, GOMA Project Manager, [d.bowen@ifoam.org](mailto:d.bowen@ifoam.org) by **30 April 2011**.