



**Committee on Sanitary and Phytosanitary Measures**

**INDIA'S REQUEST FOR INFORMATION ON ORGANIC PRODUCT NOTIFICATION**

**NOTE BY THE SECRETARIAT<sup>1</sup>**

*Revision*

**1 INTRODUCTION**

1.1. At the SPS Committee meeting of 9-10 July 2014, India requested the Secretariat to provide information regarding the extent to which measures concerning organic products are governed by the provisions of the SPS Agreement or the TBT Agreement, and the extent to which the Codex Alimentarius Commission (Codex Commission), the International Plant Protection Convention (IPPC) and the World Organization for Animal Health (OIE) address the issue of organic products. The present revision corrects a number of inaccuracies found in the original document.

1.2. The Secretariat notes that no authoritative legal interpretation currently exists as to whether measures concerning organic products are necessary for the protection of human life or health from the risks identified in Annex A of the SPS Agreement. Members have submitted notifications relating to organic products under both the SPS and TBT Agreements, as described below. Four trade concerns relating to organic products have been raised in the TBT Committee. The issue raised by India at the July 2014 meeting of the SPS Committee was the first instance in which a trade concern relating to organic products was raised in the SPS Committee; India subsequently raised the issue again at the October 2014 meeting of the SPS Committee.

1.3. Information regarding the work of the Codex Commission in relation to organic products is described below. At the July 2014 meeting, the IPPC and OIE confirmed that they have not addressed the issue of organic products.

**2 SPS NOTIFICATIONS CONCERNING ORGANIC PRODUCTS**

2.1. Twenty-four SPS notifications (excluding addenda) relating to organic products have been submitted by Members since 1995, all of which are regular notifications. Of these 24 notifications, the majority relate to technical regulations governing organic agricultural foodstuff production, processing, packaging, labelling and/or certification. Some notifications specifically cover the requirements for importing organic products.

2.2. During the last five years, Indonesia, El Salvador, the Kingdom of Saudi Arabia and Thailand have submitted SPS notifications for organic products. Saudi Arabia submitted the only relevant notification in 2014, covering pesticide residues and contaminants in organic foods.

**3 TBT NOTIFICATIONS CONCERNING ORGANIC PRODUCTS**

3.1. TBT notifications on organic products pertain largely to the classification and certification of organic foods and products intended to be marketed as organic. Since 1995, there have been 95 regular notifications (excluding addenda) that relate to organic agriculture and organic products. Many of these regular notifications centre on organic agricultural production, organic

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<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO.

aquaculture and livestock production, labelling and certification of organic processed foods, and substances allowed in organic production.

3.2. In 2011, two urgent technical notifications were circulated by Brazil. One notification related to a technical regulation for the production of organic seedlings; the second regulation concerned food standards for truffles and mushrooms.

#### 4 OVERLAP IN NOTIFICATIONS

4.1. Ten notifications pertaining to the same regulation related to organic products have been submitted to both the SPS and TBT Committees, as regular SPS notifications and TBT notifications under Article 10.6 of the TBT Agreement. These notifications are the following:

SPS document	TBT document	Date of circulation of SPS notification	Date of circulation of TBT notification	Member	Products
G/SPS/N/ARM/17	G/TBT/N/ARM/66	25/06/2008	19/06/2008	Armenia	Raw materials and food-products produced by the method of organic agriculture, as well as processed foodstuffs and food of any animal and plant origin
G/SPS/N/BRA/421 and G/SPS/N/BRA/422 G/SPS/N/BRA/89	G/TBT/N/BRA/282 and G/TBT/N/BRA/283 G/TBT/N/BRA/140	02/06/2008 08/12/2003	02/06/2008 03/12/2003	Brazil	Organic agricultural products Control products used in organic agriculture
G/SPS/N/SLV/106	G/TBT/N/SLV/162	08/08/2012	14/08/2012	El Salvador	Organic agriculture: International Classification for Standards (ICS) Code
G/SPS/N/HND/17	G/TBT/N/HND/52	03/12/2007	21/12/2007	Honduras	Organic agriculture produce
G/SPS/N/IDN/65	G/TBT/N/IDN/80	10/09/2013	08/10/2013	Indonesia	Organic food system and products
G/SPS/N/KOR/282	G/TBT/N/KOR/177	06/06/2008	09/06/2008	Korea, Republic of	Organic processed food
G/SPS/N/NIC/14	G/TBT/N/NIC/37	17/11/2013	07/10/2003	Nicaragua	Agricultural foodstuff and organic farming
G/SPS/N/SAU/90	G/TBT/N/SAU/717	21/01/2014	28/01/2014	Saudi Arabia, Kingdom of	Foodstuffs: Maximum Limits of Pesticides Residues and Contaminants in Organic Food (ICS Codes: 65.100 and 67.040)

#### 5 SPECIFIC TRADE CONCERNS IN THE SPS AND TBT COMMITTEES<sup>2</sup>

5.1. The first time a trade concern related to organic products was raised in the SPS Committee was by India at the July 2014 meeting. India raised this concern again at the October 2014 meeting of the SPS Committee. According to India, in 2006 the European Union had recognized India's National Programme for Organic Products (NPOP) standards as equivalent to EU organic standards, based on an equivalency agreement between the two Members.<sup>3</sup> This recognition of

<sup>2</sup> The summaries of the trade concerns do not necessarily identify all Members that spoke on the issue, but the Member that put the matter on the agenda.

<sup>3</sup> The equivalency agreement provided that processed and unprocessed organic products from India could be exported to the European Union pursuant to (i) certification in terms of the NPOP and (ii) all products being cultivated in India.

equivalence was withdrawn by the European Union<sup>4</sup> when India published guidelines in 2012 that permitted the inclusion of less than 5% non-Indian ingredients in its value-added blended organic products destined for the EU market. India's complaint at the July SPS Committee meeting was that despite having revoked the 2012 guidelines, the European Union had not yet restored the terms and conditions of the equivalency agreement.

5.2. The European Union had responded that this was not a matter within the scope of the SPS Agreement, and should be discussed in another forum.

5.3. The following four specific trade concerns relating to organic products have been raised at TBT Committee meetings.

#### **5.1 Republic of Korea – Regulation for Food Industry Promotion Act (G/TBT/N/KOR/204)**

5.4. In June 2009, the United States raised a concern about Korea's Food Industry Promotion Act, in terms of which organic processed foods certified by other national organic programmes (previously recognised as organic in Korea) would no longer be recognised as such, unless they were formally recognized as equivalent under Korean procedures. However, Korea's enforcement regulations did not contain procedures for recognising a foreign government's organic certification bodies. As such, the United States requested that Korea extend the grace period for foreign products until June 2011 in order to provide time for the Korean Ministry for Food, Agriculture, Forestry and Fisheries (MIFAFF) to recognise foreign organic certification bodies and, during this period of time, temporarily grant entry into Korea to organic products without the MIFAFF seal. The United States highlighted that MIFAFF had not accredited any foreign organic certifier, and requested that Korea clarify the criteria that foreign organic certification bodies would need to satisfy in order to be accredited by MIFAFF. Australia, Canada, Chile, the European Union and New Zealand shared the US concerns.

5.5. Korea explained that the proposed organic processed food certification programme was aimed at improving both the quality and production of organic processed foods. The programme was equally applicable to both domestic and imported products, and products with an organic claim would need to fulfil the requirements contained in the programme. Until then, labelling of organic food products could be based either on labelling requirements contained in the the Food Sanitation Act or on organic certification guidelines in accordance with the Food Industry Promotion Act.

#### **5.2 European Communities – Production and Labelling of Organic Products (G/TBT/N/EEC/101)**

5.6. Argentina raised a concern in March 2008 about the application of Article 24 (entitled "Compulsory indications") of EU Regulation No. 834/07 to the production and labelling of organic products. This provision required an indication of the origin of raw materials and provided for categorisation under one of three forms: (i) "EU Agriculture"; (ii) "non-EU Agriculture"; and (iii) "EU/non-EU Agriculture". In Argentina, a product was considered "organic" pursuant to following certain manufacturing processes, irrespective of where it was produced. Argentina noted that the "EU/non-EU Agriculture" label was neither supported by WTO agreements nor by Codex standards and would create an inappropriate precedent by imposing new requirements in addition to existing international standards.

5.7. The European Union committed to continued discussions with Argentina on this topic.

#### **5.3 Chinese Taipei – Organic Products (G/TBT/N/TPKM/65 and G/TBT/N/TPKM/69)**

5.8. In November 2009, the European Union raised concerns about Chinese Taipei's discriminatory application of import standards on organic products amongst the EU member States, notably between the 12 newer and 15 older members States. The European Union felt this was unjustified and discriminatory, because (i) all EU member States conformed to identical organic legislation that had been recognized as equivalent by Chinese Taipei and (ii) for the new EU member States, the organic legislation was implemented without any transition period from

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<sup>4</sup> EU Regulation 125/2013, withdrawing the equivalency recognition agreement with effect from 1 April 2013.

their date of accession to the European Union. Accordingly, the European Union requested that Chinese Taipei extend its approval procedures to its 12 new member States.

5.9. Chinese Taipei explained that its review of organic equivalency covered both regulations and technical specifications of organic agricultural and processed products in foreign countries, as well as development of the organic agricultural sector. The European Union had not yet provided information on the development of its organic agricultural sector with regard to the effective implementation of the European organic management system in the 12 new EU member States. Following a meeting in October 2009, the European Union had undertaken to provide the necessary information required for Chinese Taipei to extend its approval procedures to the 12 new EU member States.

#### **5.4 European Communities – Regulation Concerning Import Requirements and Certification of Organic Products (G/TBT/N/EEC/2)**

5.10. The United States raised concerns at the TBT Committee meeting in October 2001 about draft EU regulations relating to import requirements and certification of organic products.<sup>5</sup> Effective from July 2002, the EU regulation provided that organic products would be approved by the competent border authorities of individual EU member States when imported from countries who lacked an equivalency agreement with the European Union. The United States noted that the lack of procedures amongst EU border authorities to communicate with the competent authorities that issued import regulations could give rise to delays in approval procedures. As such, the United States requested the European Union to provide clarity on the criteria it used in establishing equivalency agreements for access of organic products to the European market.

5.11. The European Union undertook to provide further information to the United States.

## **6 CODEX STANDARDS**

6.1. The Codex Commission is mandated to facilitate fair practices in food trade and to ensure the global health of consumers. In order to fulfil this mandate, the Codex Commission is tasked with creating food standards and guiding principles for the safe and fair trade in food products. In 1999, its Committee on Food Labelling developed the *Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods* ("Guidelines"), intended to facilitate the harmonization of organic products requirements at an international level, and assist governments with establishing national regulations within this arena of food standards regulation.

6.2. In particular, the Guidelines:

- i. cover concepts of organic production, descriptions and definitions;
- ii. address labelling and rules of production and preparation;
- iii. provide for inspection, certification systems and import control; and
- iv. list criteria for substances permitted in organic production.<sup>6</sup>

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<sup>5</sup> Article 11 of Council Regulation (EEC) No 2092/91. Notification of the EU draft regulation was circulated by the TBT Secretariat in document G/TBT/N/EEC/2 on 6 February 2001.

<sup>6</sup> Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods, CAC/GL 32-1999.