

Developments in Canada toward a final organic regulation

Canada's organic sales are growing by at least 20% per year, and in some categories by over 30%. The market is now conservatively estimated at over CAN\$2 billion per year. However, although Canada exports large quantities of organic bulk ingredients, it remains a net importer of consumer-ready organic food and products. The Canadian market also offers proximity and close trade ties to the US. It is, therefore, not surprising that there is great interest in the Canadian organic market, and Canada's new organic regulation.

Canada's first national organic standard was formalised in 1999 by the Technical Committee on Organic Agriculture, from the Canadian General Standards Board. Ten years later, on 30 June 2009, Canada will enact its new mandatory Organic Products Regulations (OPR), making these standards for organic products mandatory in Canada. Much has happened over the intervening ten years to get to this point: changes to the standards, false starts for the regulation, and the beginnings of possible equivalency agreements with other regulated organic markets. This article provides some of the latest information on these developments in Canada

Overview

A distinguishing characteristic of the Canadian system is the separation of the organic standards from the regulations; the standards are industry-controlled, and are periodically reviewed and updated by the above-mentioned Technical Committee. The standards describe allowable

production and management practices, and work in conjunction with the 'permitted substances lists' that specifies allowable materials and their use (a positive list). The regulations, published under official government legislation, refer back to the standards but do not address the technical details required of organic producers. Instead, the regulations are exclusively concerned with control mechanisms, process, enforcement, and labelling requirements. Currently, the regulations are limited to food, livestock and cultivated plants imported or traded across provincial boundaries in Canada. Currently, the only provinces in Canada that regulate organic claims for products sold exclusively within their jurisdiction are Quebec and British Columbia.

The Canadian Food Inspection Agency (CFIA) is the Canadian competent authority. It will administer

and enforce the regulations through the newly established Canada Organic Office. Though the CFIA is the accreditor of the Canadian system, it will recognise third-party 'conformity verification bodies' to do the work of reviewing individual certification bodies. The five approved conformity verification bodies are: Standards Council of Canada, CAEQ (Quebec), COABC (British Columbia), IOAS (International), and DAP (Germany).

Subject to the regulations, to be sold on the Canadian market an organic product will have to be certified to the Canadian standards by an accredited certifier. Canadian labelling requirements will be a hybrid of US and EU systems, specifically: 'Organic' (95% or more), 'xx% organic ingredients' (70-95%), or, for products with less than 70%, the organic content may be identified on the ingredient panel (only) without the requirement to certify. Unlike the US, Canada will not allow a '100% Organic' claim; and unlike the EU, Canada does not have a labelling provision for 'Conversion to Organic' claims. Organic claims will have to be printed in English and French. A voluntary government seal will be available for 'organic' products (greater than 95%), however if the seal is used on an imported product the label must also include a statement ('imported' or 'product of XX') to eliminate possible confusion about the origin of the product.

Standards developments

Canada's production standards are generally quite specific. They include sections on a variety of speciality

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crops and processing, including mushrooms, maple, honey, sprouts and wild harvest, as well as strict limits on hydroponic production and detailed requirements for food processing and cleaning of equipment. Canada also has specific maximum stocking rates for all livestock, and permits the emergency use of antibiotics in organic dairy cows, though not for meat animals. The Permitted Substances List specifies acceptable soil amendments, production aids, pest control materials, livestock treatments, and cleaners and sanitizers for all circumstances.

In January 2009, a new edition of the standards was published. Their publication was the conclusion to a two-year amendment process of the 2006 version. The new standards are known officially as 'CAN/CGSB 32.310-2006 Amended 1-Oct-2008', while the Permitted Substances Lists (PSL) are known as 'CAN/CGSB 32.311-2006 Amended 1-Oct-2008' available at www.tpsgc-pwgsc.gc.ca/cgsb/on_the_net/organic/index-e.html. An additional amendment to the standards and PSL will be published in the summer of 2009. The standards are currently available for Can\$60, but the Canadian sector is appealing to the Government to make the standards available free of charge, as with the previous version.

Recent revisions of the standards included an overhaul and expansion of the permitted substances lists, following comparisons with Codex, IFOAM, the NOP and EU standards, as well as submissions from the sector. The national maple standards are much more detailed in the new standards. The livestock sections have also been revised significantly and now include greater specificity, particularly in regards to housing, stocking and pasturing requirements, as well as a

clear prohibition of cloned animals and their descendants.

In April 2009 the Technical Committee approved to have the entire livestock section reviewed. It also agreed to conduct a ballot on a proposed prohibition on nanotechnology, which if accepted could be reflected in the standards as early as summer 2009.

To assist with the day-to-day interpretation of the standards, the CFIA has established a seven-member committee composed of industry representatives whose mandate will be to provide the competent authority with guidance on standards questions. Interpretations that are approved by the Canadian Organic Office (COO) will be logged for public reference and will be shared officially with certifiers and conformity verification bodies.

New regulations

An amended version of the OPR, reflecting extensive consultations with the Canadian sector and trading partners, was published in February 2009. Significant changes include a clarification of the scope that limits the OPR to food, livestock feeds, and agricultural practices that, based on third-party certification, can make organic claims. Only products produced under such systems will have access to the Canadian logo and will be subject to enforcement under the OPR. Other sectors (such as personal care and fibre products) will continue under voluntary self-regulation for the time being, but will not have access to the federal logo. Work has already begun on an aquaculture standard at the Canadian General Standards Board.

Other changes to the OPR include greater clarity on imports and possible equivalency. The options under which products can be imported into the country and be marketed as organic are: a) certification to the Canadian standard by an accredited certifying body reviewed by a recognised conformity verification body; or b) certification according to another standard deemed equivalent to the Canadian organic standard through an equivalency agreement. The new OPR also includes language that allows the competent authority to recognise third-country products that are also certified to an equivalent standard. Export-only products manufactured in Canada can be made to the destination market's requirements without having to first certify to Canadian standards.

The new OPR make explicit references to ISO 17011 (for accreditation) and ISO 65 (for certification) as guidelines for the relevant bodies within the Canada Organic Regime. The OPR also clarifies the process of appealing, suspending or cancelling accreditation or certification, and the role played by the regulator in ensuring transparency and that due process is followed.

After extensive discussions with the Canadian sector, the CFIA has developed a 'stream of commerce and enforcement policy' for the first 24-month phase-in of the regulations. During this time, the Canadian regulations and standards will be enforced, however those not in compliance will be notified and informed of a timeline under which they must take corrective action. During the 'stream of commerce' phase-in, such products

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PUT AND TAKE

The Danes have always been advanced when it comes to developing new organic markets. For the sport fisherman there is now the opportunity to catch certified trout from 'put and take' ponds – ponds that are stocked with fish ready to be caught and fishermen pay large sums for the pleasure of catching them. The price for the put and take trout is 40 Danish Krone per kilo, that is over 5 euros. ■

GENERATION SHIFT

After 15 years in the position, Inger Källander has now stepped down as the chairperson of the Swedish Ecological Farmers Association. The new chairperson is Elin Rydström, perhaps best known for her exploits of riding cows in commercials for Arla, the Swedish-Danish dairy cooperative. Elin is a dairy producer and participates in programmes that arranges farm visits for children. She is second generation organic farmer. ■

ANOTHER IFOAM ACCREDITATION

Ecocert Afrisco (Pty) LT of South Africa has just become accredited to both the IFOAM Norms and ISO/IEC Guide 65 with scope Afrisco private standards and Production and Processing standards of (EC) 834/07. The accreditation was conducted by the International Organic Accreditation Service. ■

Source: www.ioas.org

will not be barred entry or removed from the market as a matter of course. However, the competent authority has this option available to it if deemed necessary. The full enforcement policy is available on the CFIA's organic website (www.inspection.gc.ca/english/fssa/orgbio/orgbioe.shtml), which also includes resources, such as questions and answers on the 2009 organic regulations, links to the regulations, standards and Canadian statistics.

Trade considerations and equivalency

Canada ranks among the world's top five agricultural importers and exporters; consequently, the new organic system could have a profound impact on trade with many countries. The objectives of the new Canadian systems are largely the same as those of other regulations: consistent enforcement of rules and standards, continued growth of the organic sector, preservation of organic integrity, and consumer protection. Commonalities also exist on the micro level; for example, most systems share the same basic organic principles and general prohibitions (e.g. genetically modified organisms and irradiation).

Although organic standards differ for many reasons (e.g. regional growing conditions, stakeholder involvement in the development stage, governments' agro-ecological policy goals), they are generally more similar than they are different. The challenge, of course, is to discern where a variance between two standards is the result of process and where it denotes a more profound difference of opinion. From this, one is perhaps left with a shortlist of 'critical variances' around which an equivalency agreement can be negotiated.

Given its strong trade relationships

(particularly with the EU and US) the Canadian Government has indicated that it is very interested in pursuing equivalency agreements. Japan has expressed interest, and initial exchanges have taken place between the competent authorities. Equivalency discussions with the EU continue to progress well, though perhaps not quickly enough in the opinion of many in the sector who would like to see a stronger trade relationship develop between the two trading partners and see no sense in delay.

Talks with the US are at an advanced stage of negotiation. In March, the two Governments indicated they were close to an agreement and would sign a 'letter of intent' to have an equivalency in place by the summer, when Canada's regulations come into force. The specifics of a possible Canada-US organic equivalency agreement, including the approach to critical variances remaining between the two standards, phase-in periods, and other considerations, are still being determined by the Governments, and this information is not public.

However, it is possible to speculate what many of the critical variances may be, and how a Canada-US agreement might take shape:

Structure

Both sides are at the table considering full equivalency – that is, the possibility of full mutual recognition and open trade between each other's organic systems. In addition to market access, this scenario would include the full interchangeability of the 'USDA Organic' and 'Canada Organic' labels. The most likely way all identified variances would be dealt with would be in a flexible manner that continues to respect the domestic standards. For example, the use of antibiotics is permitted by the Canadian

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STATE VS PRIVATE CONTROL SYSTEMS

In 2008 the International Centre for Research in Organic Food System (ICROFS) conducted a research project comparing state certification and labelling systems in four countries: US, UK, Sweden and Denmark. The results show that the Danish system enjoys the greatest trust from consumers compared to the other countries.

Considerably more Danish consumers expressed confidence that products marketed as organic actually are organic in majority of the cases. This raises the question whether consumers have more confidence in state operated systems, such as the Danish system, than systems operated by private bodies?

To investigate why the Danish were more trusting the researcher looked into Danish consumers' characteristics. Several studies have been referenced in the research that claim the Danes are among the most trusting people in the world, and more importantly, are prepared to trust in state institutions like the courts and the government. Based on this, the research team concluded that the high confidence in the Danish organic labelling system is not just an effect of state versus private labelling system, but also due to the Danish confidence in government institutions. ■

Source: ICROFS

For more information please see www.icrofs.org/pdf/icrofsnews/2009_2.pdf

but not the US standards. Therefore, to accommodate the US prohibition a flexible system could be devised where Canadian dairy products destined for the US market – in either an ingredient or finished product form – would be certified to the Canadian standards, but would also provide assurance or proof that no antibiotics had been used in their production.

Content

The list of standards variances requiring such additional assurances will be short. In consultations with industry on the differences between the standards, just four were considered critical. These are:

- Canada's more detailed standards for maple production.
- Canada's specific maximum livestock stocking rates and pasture rules (which may be less of a difference for certain livestock once the US introduces their new pasture rule).
- Canada's prohibition of sodium ('Chilean') nitrate.
- The US prohibition on antibiotic use in livestock.

Of these, differences in maple production may be considered to have the least impact, as Canada owns most of the market. The Canadian prohibition of Chilean nitrate will be subject to the 'stream of commerce' enforcement phase-in, bringing it very close to the scheduled 'sunset review' of Chilean nitrate under the US system in 2012. Therefore, if at this time the US does not renew its limited restrictions on sodium nitrate, the material will become prohibited in the US as

in Canada and most of the world. This leaves, then, just the two differences regarding the raising of livestock: Canada's defined density rates and emergency use of antibiotics in contrast to the US prohibition on antibiotic use and a less proscriptive approach to animal housing and pasturing.

It must be stressed that the above comments are just conjecture. The failed US-EU negotiations of 2004-05, raised very similar issues; however international markets were also at different stages at that time, and mutually-exclusive regulatory systems may have been more tenable. How the Canadian and US Governments choose to proceed with the current negotiations is anyone's guess, perhaps best left to economists and trade officials. Whether Canada and the EU will be able to find commonality is hopeful, but also difficult to predict.

As the world's organic sector matures and continues to see its long-term goals realised in the public policies of various national governments, the next steps must be to consider how to return the organic sector to the global movement it started out as. Equivalency offers one possible way forward. ■

Matthew Holmes
mholmes@ota.com

Matthew Holmes is managing director of the Organic Trade Association in Canada, chair of the processing working group of Canada's standards technical committee, and a member of the Standards Interpretation Committee for the government regulator. He speaks and writes regularly on the subject of Canada's organic market and regulatory system, and updates are posted at www.ota-canada.ca.

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Canadian equivalency negotiations

Feedback from the Canadian Food Inspection Agency

Currently, equivalency negotiations are taking place between the Canadian Government and governments from other countries. TOS contacted the Canadian Food Inspection Office (CFIA) for further information on the progress of these negotiations.

In response to questions from TOS the Canadian Food Inspection Office (CFIA) said: 'The Government of Canada is currently working to discuss equivalency between Canada's regulatory regime with the regulatory regimes of its major trading partners, including the United States and the European Union. The goal is

to determine whether or not the objectives of the trading partner's regulatory regime are similar to Canada's. Equivalency is determined by assessing and comparing the foreign regulatory system, including the standard, with the Canadian counterpart to determine whether the outcomes achieved are equivalent.

Acronyms guide

Canadian Food Inspection Agency (CFIA): The competent authority.

Canada Organic Office (COO): a department of CFIA that deals with the designation of the Conformity Verification Bodies that recommend for accreditation the Certification bodies and with the accreditation of Certification bodies (CBs) to certify according to the Canadian Organic Regime.

Canadian Organic Regime (COR): is made of the Regulations (OPR)

and the Standards.

Organic Products Regulation (OPR): the Regulations (official government legislation).

Canadian Organic Standards: CAN/CGSB 32.310 and CAN/CGSB 32.311 (Organic Production Systems - General Principles) and (Management Standards and Permitted Substances List). Industry controlled and published by the Canadian General Standards Board (CGSB).

For further information:

www.inspection.gc.ca/english/fssa/orgbio/orgbioe.shtml Information on organic matters in CFIA website

www.gazette.gc.ca/rp-pr/p1/2009/2009-02-14/html/reg1-eng.html Amendments to the Organic Products Regulations after public comment period which ended on April 29, 2009.

www.pwgsc.gc.ca/cgsb/on_the_net/organic/index-e.html The Canadian Organic Standards (not free of charge)

'Elements of the foreign regulatory regime that are assessed include: regulations; accreditation criteria; certification criteria; standards; and monitoring and enforcement activities.

'Variations are identified and advice and input are sought from industry on the significance of variations found in the respective standards, via the Canadian General Standards Board's Technical Committee for Organic Agriculture. The Government takes this input into consideration while determining if a foreign organic regime can be deemed equivalent.

'If the Government of Canada identifies a critical variance that cannot be resolved, it will become an exception. An import-export agreement that contains exceptions would partially deem the foreign country's conformity assessment and standards as equivalent to the proposed Canadian requirements. If the foreign country's conformity assessment system and its standards are deemed only partially equivalent, then the exceptions would be outlined in the agreement and the certification would have to meet the requirements of the agreement.

'If these discussions are successful, products certified under, say, the United States regime, could be imported into Canada without being recertified. The CFIA, however, cannot discuss the specifics of these discussions, at this time, as they are ongoing.' ■

Nuria Alonso
nuriaiberian@hotmail.es

Source: Canadian Food Inspection Agency
www.inspection.gc.ca

Previous information on Canadian Organic Regime certification and accreditation can be found at TOS issue 89, September 2008, pages 7-9.