10. Food labels and the environment: towards harmonization of EU and US organic standards

David E. Winickoff and Kendra Klein

INTRODUCTION

Food labelling schemes present significant challenges for international harmonization, for they embody contingent governmental policies, consumer and producer values, local knowledge and trade politics. Battles across the Atlantic over the labelling of genetically modified organisms (GMOs), recombinant bovine growth hormone and geographical indicators illustrate these challenges. They also reveal persistent differences between the EU and US within the regulatory domains of the environment, agriculture and food safety. Divergence on food regulation is predicted by scholarship on comparative regulation. This work has noted how culturally specific accountings of risk have fuelled different national conceptions of regulatory problems across the US and Europe (Christoforou, 2004; Krämer, 2004; Jasanoff, 1995, pp. 311-31). Alternatively called political or regulatory culture (Jasanoff, 1986) and regulatory styles (Vogel, 1986), differences across the US and EU have been stark in transatlantic regulatory controversies involving food (Post, 2005). These factors, along with economic ones, make harmonization across the EU and US in the sphere of food regulation particularly difficult.¹

Scholars have focused on high-profile 'food wars' involving GMOs and hormones in livestock production to the relative exclusion of regulation on organic crops (Weirich, 2007). Compared with conventional crops, there is less trade in organic crops, and labelling regimes are voluntary and positive, making them less likely to trigger trade disputes. Yet the lack of scholarship on the regulatory dynamics of organic agriculture remains a significant gap. The organic label is the earliest, most globally pervasive food label with important environmental implications (Allen and Kovach, 2000, p. 223); a growing body of evidence suggests that organic production methods can help promote biodiversity, reduce the chemical burden on soil
and waterways, and even mitigate climate change (Refsgaard et al., 1998, pp. 599–630; Ball and Pretty, 2002, pp. 247–50). Furthermore, the economic importance of organic agriculture is increasing. The organic sector has maintained 20 per cent growth annually, becoming a multibillion-dollar market and achieving a high level of legitimacy with consumers around the world. Lessons learned from the development, institutionalization and integration of organic standards could be key, not only for the project of harmonizing organic standards, but also for the regulation of ‘beyond organic’ labelling, whether for food miles, local food, fair trade or carbon footprint.

An analysis of organic standards across the US and EU indicates the process by which, somewhat surprisingly given their regulatory differences, the EU and US have achieved relative convergence on organic standards. At the same time, differences across jurisdictions persist and have calcified, presenting roadblocks to harmonization. Accordingly, this chapter takes a comparative look at organic regulation in the US and EU with particular attention to the evolution of convergence and divergence of the two jurisdictions. We also analyse in detail the prospects and stakes involved in transatlantic harmonization, and review the strengths and weaknesses of efforts made to date. Finally, we make recommendations aimed at greater harmonization and draw out implications for international regulation in other spheres.

STANDARDIZATION IN THE EU AND US

For more than 50 years, the definition of the term ‘organic’ has co-evolved with practices of standardization and certification. In principle, organic agriculture seeks to mimic ecological patterns by cycling local nutrients, limiting synthetic inputs and using on-site resources. Since the late 1960s, associations of organic farmers and consumers have developed and refined formal guidelines and standards as a way to guarantee organic quality to consumers, prevent fraud and facilitate growth of the organic market (Bowen, 2002, p. 199). Organic ‘seals’ have long been used in conjunction with certification to communicate organic quality to consumers at a distance. Beginning in the 1970s, private organic labels such as the Soil Association in the UK, Bioland in Germany and California Certified Organic Farmers, spread across Europe and the US.

The International Federation of Organic Agriculture Movements (IFOAM) became the most important organization to set organic standards in the early years of the movement. IFOAM began promulgating its Basic Standards for Organic Agriculture in 1980. A high degree of stakeholder consultation and democratic deliberation endows these standards with legitimacy among global organic constituencies (Padel et al., 2007, p. ix). Today, IFOAM is a worldwide umbrella organization for the organic movement representing more than 750 organizations in 108 countries. Every three years IFOAM members are invited to a general assembly to revise the standards and elect its governing World Board. The IFOAM Basic Standards have been used as a reference by standard-setters in Europe, Brazil, China, Egypt, India and Argentina.

The impetus for organic standardization at the national level in the US and the regional level in the EU came in the late 1980s. As the organic market expanded, the proliferation of labels and certification schemes produced a network of uneven enforcement, trade barriers, consumer confusion and fraudulent claims made by farmers attempting to cash in on organic price premiums. Actors within both government and the organic movement in the US and EU saw standardization as a way to support the growth of the organic market, facilitate trade, and protect consumers and producers by guaranteeing quality (Bowen, 2002, p. 199; Schmid, 2008, pp. 152, 159).

European policy-makers’ interest in organic production grew as it
Transatlantic regulatory cooperation

was perceived to deliver environmental and rural development benefits (Lampkin et al., 1999, pp. ii–iii). By the early 1990s, organic agriculture was embraced in the EU as part of a larger turn towards agri-environmental policy aimed at rectifying the overproduction and ecological problems associated with conventional, intensive agriculture (Lowe and Baldock, 2000, p. 32). By that time, six European countries had a national legal definition of the term organic and eleven had standards set by private-sector bodies.

The EU closely collaborated with organic movement actors in the process of standardization. The 1991 Council Regulation (EEC) No. 2092/91 defining organic crop production is based directly on the standards developed by IFOAM. IFOAM continues to play an important role in defining organic at the EU level. During the negotiations for the 2007 organic revision (Council Regulation (EC) No. 834/2007), which took effect in January 2009, the EU adopted IFOAM’s guiding principles of health, ecology, fairness and care as the foundation for moving forward in this domain (Padel et al., 2007).

The definition of organic produce is somewhat decentralized in the EU. The EU’s organic rule sets a base above which individual state and private certifiers can develop their own standards. The tension between maintaining diverse national and private standards versus a centralized EU standard is highlighted by debates over organic logos and labels. Some member state and private labels are well known to the public (for instance, KRAV in Sweden, Skal in the Netherlands and the Soil Association in the UK) (Dimitri and Oberholtzer, 2005, p. 14). Until the 2007 revision, use of the EU logo was voluntary and few certifiers used it. If the ‘brand’ of national or private certifiers is strong in the marketplace, certifiers favour their own logos (ibid.).

As part of the new organic rules of Regulation (EC) No. 834/2007 the EU’s organic label will be required on all packaged organic products produced or processed in the EU starting in July 2010. Organic farming organizations have raised concerns about the EU logo, stating that it will crowd out limited package space, confuse consumers and compete with private and national logos that have developed a high degree of trust among consumers (IFOAM EU Group, 2004). Tensions over the mandatory EU logo turn on ideas of local, regional and national identity as well as concerns that branding organic food with ‘EU’ could undermine consumer confidence as a result of what IFOAM calls ‘Euro scepticism’ (IFOAM EU Group, 2004, p. 2).

The definition and regulation of organic produce are more centralized in the US. By 2000, 30 states and approximately 30 private certification bodies were implementing organic regulations. Today, the US National Organic Program (NOP) requires all organic food producers with sales over $5000 to meet the same production and handling standards and be certified under the same process. With the establishment of the NOP in 2002, existing certification bodies such as California Certified Organic Farmers and Oregon Tilth were converted from standard writers to service providers, certifying to federal standards under a system of accreditation (Metzstaugh, 2003, p. 2039). There are currently 95 accredited state and private agencies under the NOP, 55 domestic and 40 foreign (USDA, 2008). The NOP pre-empts these agencies from setting standards that exceed or granting exceptions to the federal standard. While labels must state which agency certified the product, the national logo is not required.

The push for a US organic rule came from outside the US Department of Agriculture (USDA) when Senator Patrick Leahy, then chairman of the Agriculture Committee, worked with organic movement actors to write the 1990 Organic Foods Production Act. A long and at times contentious process ensued between the passage of this Act and the 2002 NOP. The Organic Foods Production Act originally stipulated that states could have additional, more restrictive standards (US Senate, 1990, Title XXI, Section 2108), but the final USDA rule imposed a federal ceiling.

**DIVERGENCE AND CONVERGENCE**

The aforementioned differences in regulatory culture, as well as differences in explicit goals and mechanisms, set organic food regulation on alternative paths in the EU and US. Whereas these differences have led to polarization in areas such as GMO regulation and hormones in livestock production, the organic case is different. A few important details of the standards diverge across the US and EU, and these have proved to be stumbling blocks in the road to transatlantic harmonization. Nevertheless the two regulatory systems are marked by relative convergence with respect to core organic standards and certification.

One threshold factor explaining convergence is that the organic story is one of voluntary labelling, not the far more contentious practice of banning substances as is the case with the GMO and beef hormone stories. Another factor likely involves the relatively low, although growing, volume of trade in organic produce across jurisdictions, which would in theory lower the protectionist payoffs of maintaining technical barriers to trade. These two factors helped to set positive conditions for regulatory harmonization, but they do not explain how relative convergence on process-based and precaution-based standards was achieved. We argue
that polarization was averted owing to the ability, ultimately, of organic social movement(s) to influence both sets of regulations, albeit through different channels.

Initial Divergence

EU and US organic policies differ starkly in their explicitly stated regulatory goals, setting up the conditions for divergence. By the late 1980s the EU had begun shifting away from input- and technology-intensive agriculture, perceiving conventional agriculture to be the cause of a range of environmental problems. The European Commission explicitly supported organic agriculture as a tool to achieve environmental and rural sustainability goals (European Commission, 2004). The USDA, on the other hand, acknowledged 'sustainability' as a goal in the 1990s, but did not claim organic agriculture as a means to achieve it. The USDA approached organic as merely a niche market and categorized it as a marketing tool associated with consumer preferences rather than a method of sustainable agriculture (Agricultural Marketing Service, 2000).

Organic regulation also threatened to diverge on the grounds of its validation and evidentiary basis. The organic story reflects epistemological differences between these regulatory jurisdictions that have played out dramatically in debates over agricultural technologies, such as GMOs and recombinant bovine growth hormone. Whereas the US has typically been characterized as technologically optimistic (Jasanoff, 2006, pp. 273–92), the EU has taken a more precautionary approach to technological risk management (Post, 2005). The EU readily accepted the definitions and standards developed by the organic movement based on a precautionary approach to agricultural technologies. In contrast, the USDA proposed an organic standard that excluded only food production technologies based on a demonstration of ‘measurable degradation’ in a technical risk assessment.

As a result, the initial standards put forward by the USDA for public comment in 2000 included a range of agricultural technologies that were not permitted by any existing state or private organic standards in the US or internationally. The most significant of these became known as the ‘Big Three’ – food irradiation, sewage sludge as a soil amendment and genetically modified organisms. The USDA also proposed that numerous synthetic substances that had been rejected by organic movement actors be included on the national list of allowed inputs and that antibiotics and feed additives be permitted in livestock operations with few to no restrictions. In effect, the proposed rule attempted to shift organic standards from being process-based to product-based, whereby measurable degradation in the final product would determine the use of crop inputs, antibiotics and feed additives (Vos, 2000, p. 249).

The Organic Social Movement as a Convergence Factor

Surprisingly, these differences in goals and regulatory culture vis-à-vis risk-based regulation have not resulted in the polarization of organic regulation across the US and EU. In the end, both sets of standards closely reflect those promulgated by the organic movement, and therefore are remarkably similar. For instance, there is a high degree of agreement on the importance of maintaining the long-term fertility and biological activity of the soil, prohibiting most synthetic inputs, conserving water, natural resources and biodiversity, and prohibiting recombinant DNA technology. The technical standards of crop production in both jurisdictions are particularly compatible (as opposed to livestock production), as evidenced by the fact that farmers can relatively easily follow the most restrictive criteria of both rules and thereby be certified for sale in both markets. This practice results in increased costs for both producers and certifying bodies, however, as they must deal with the complexities of managing multiple accreditations (Bowen, 2002, p. 200).

In both the US and EU organic systems, the participation of actors and existing standards from within the organic movement exerted a profound influence on the substance of the regulations, and this ultimately allowed the two systems to converge on key substantive standards. But the mechanisms through which this infusion occurred differed across the two. The EU has no formal mechanisms for public participation in organic rule-making, although organic movement actors have been influential in drafting both the original standards and the 2007 revision. In contrast, the US process has formal mechanisms for public input into the organic rules. This structure resulted in conflict between the government (represented by the USDA) and organic movement and industry actors, but led to a final organic law that was much closer to IFOAM and European standards.

In Europe, IFOAM has been closely connected to the development of organic policy at the member state and EU level. Many of the certification organizations that existed in Europe prior to the 1991 regulation used the IFOAM Basic Standards to develop their organic programmes. Furthermore, when the European Commission took up the discussion of an organic regulation, many certification programmes from both the private and public sectors submitted the IFOAM Basic Standards as a reference document. When the draft rules were released, IFOAM, as well as countries with organic programmes and private-sector certification organizations, submitted comments to the Commission and the European
Parliament to influence the outcome. Finally, as mentioned above, the EU adopted IFOAM’s guiding principles of health, ecology, fairness and care as a foundation for the 2007 revision.

In the US, the 1990 Organic Foods Production Act created a National Organic Standards Board (NOSB) empowered to advise the secretary of agriculture. The NOSB was (and still is) comprised of 15 members: four organic farmers; two organic handlers; one owner or operator of a retail establishment with significant trade in organic products; three experts in environmental protection and resource conservation; three representatives of public interest or consumer interest groups; one expert in the field of toxicology, ecology or biochemistry; and one USDA accredited certifying agent. Between 1992 and 1996 the NOSB held public sessions nationwide during which they received an immense amount of input from farmers, businesses and consumers on the development of the national standard.\(^8\) Through detailed and thorough work, the NOSB developed recommendations that reflected a high level of consensus in the organic community (Vos, 2000, p. 247).

The recommendations submitted by the NOSB to the USDA were closely aligned with existing organic standards in the US as well as the IFOAM and EU standards. The USDA, however, had final authority in determining the regulations and rejected the NOSB recommendations in full, releasing a National Organic Program Proposed Rule in December 1997 that bore little to no resemblance to the NOSB proposals. As discussed above, the USDA Proposed Rule included the Big Three (food irradiation, sewage sludge and GMOs) and tended to ‘erasure the distinctions between organic and conventional agriculture and to undermine long-standing traditions of organic philosophies and practice’ (Ibid., p. 248).

The USDA Proposed Rule resulted in an intensive mobilization of opposition within the organic movement. A record number of 275,000 public comments were submitted to the USDA, an overwhelming majority of which were in opposition. The mobilization was dramatically successful in reorienting the US organic rule towards consistency with existing local and international standards. In 2002 the USDA released final standards for the National Organic Program that largely matched the original NOSB recommendations, which in turn had been influenced by IFOAM and European standards.

**Towards Harmonization**

Organic and other eco-labels require some degree of trade harmonization to grow markets, reach a large number of consumers and facilitate entry for new producers. The supply of organic goods lags behind demand in the US and EU, the two largest organic markets. Harmonized standards would facilitate trade between these regions, as well as help farmers in developing and middle-income nations engage in trade with these major markets (Courville, 2006, pp. 208–9). Compared with the polarization of food safety regulation in other domains, organic regulation stands out as a promising candidate for international harmonization: convergence across the US and EU organic regulatory systems currently includes a similar stance to the Big Three as well as a general commitment to what is fundamentally a process-based approach. Nevertheless, small but intransigent differences have calcified across the two jurisdictions. These differences have prevented the achievement of an equivalence that could be within grasp. In this section we review the differences and the state of efforts to overcome them at the international level. We also review the complex systems of international accreditation that has emerged in lieu of equivalency, and some of the costs of such complexity at the international level.

**Key Differences**

Although international trade in organic produce has developed across the two jurisdictions and elsewhere (discussed in more detail below), harmonization across regulatory systems has proven elusive. The European Commission and the USDA Foreign Agricultural Service initiated confidential discussions aimed at ‘equivalency’ in 2004.\(^9\) Despite the great potential for harmonization, negotiations foundered and were dropped because of impasses on a number of specific differences entrenched in formal legislation (Barley, 2006, p. 60).\(^10\) While international harmonization was stated as a goal in the US Senate report that accompanied the 1990 Organic Foods Production Act,\(^11\) political negotiations during the development of the US national organic rule resulted in some important differences between the US and EU standards. These differences in particular have created obstacles to equivalency: the approach to the farm unit, the lists of prohibited and allowed inputs, and criteria for livestock operations.

**Farm unit.** The different approaches of the US and EU standards to the farm unit are evidenced by criteria on parallel organic and conventional production as well as the degree to which the farm is treated as a closed system of production. These differences can largely be attributed to the different geographical features of agriculture in the US and EU.\(^12\) The EU has a long history of smaller, integrated farm units, while US agriculture is characterized by larger-scale, specialized farms in geographical regions (Crucefix, 2007, p. 30). This is in part reflected by organic rules...
the EU mandates that a given farm unit must be fully organic and takes a more regional approach to production, requiring that the prevailing share (more than 50 per cent) of animal feed come from the farm unit itself or other organic farms in the region. The US, in contrast, allows parallel organic and conventional production on the same farm unit as long as production, storage, and processing are managed by physical barriers to prevent commingling and contamination. The US has no requirements related to regional sourcing of animal feed.

Lists of approved and prohibited substances. Different approaches to lists of approved and prohibited substances in organic production have also proved to be roadblocks in equivalency negotiations. The EU developed a 'positive list' based on IFOAM standards while the US Organic Foods Production Act drafted a 'negative list'. The EU has a closed list of acceptable inputs (including both 'natural' and 'synthetic') with no reference to prohibited materials. Producers can only use substances explicitly listed. The US list, conversely, allows all 'natural' substances to be used unless they are expressly prohibited and prohibits all 'synthetic' substances unless they are specifically allowed. The lists pose a problem for determining equivalence, since it is difficult to make side-by-side comparisons of accepted and prohibited inputs. Beyond the different structures of the lists, some of the allowed materials differ. There has been a long-standing controversy over specific inputs such as Chilean nitrate (sodium nitrate). The US allows the use of sodium nitrate for up to 20 per cent of the crop's total nitrogen requirement while the EU prohibits its use altogether.

Livestock standards. Livestock standards have posed the greatest challenge to equivalency. The differences between the US and EU on antibiotic use in livestock operations posed an insurmountable roadblock in recent equivalency negotiations (Earley, 2006, p. 56). Interestingly, the original US NOSB recommendations were in harmony with EU and IFOAM antibiotic criteria, but non-equivalent criteria were established in the process of the US standard-setting controversy. In accordance with the EU and IFOAM criteria, the NOSB had recommended that antibiotics be prohibited for use on a routine basis as a growth promoter or preventive measure, but be allowed to treat sick animals if all other methods of treatment failed. As in the EU, treated animals would be returned to organic production after a specific withdrawal period.

The USDA Proposed Rule nevertheless held that organic farmers should be allowed to use antibiotics without restriction, as do conventional farmers. The organic community rebutted with an appeal to international harmonization, insisting that US standards be developed to 'fit within the guidelines of the International Federation of Organic Agriculture Movements adhered to by many countries' (Youngberg et al., 1998). In the subsequent dispute and negotiations, which involved other major players including the Cattlemen's Association and American Veterinary Medical Association, the USDA presented a choice: either accept antibiotics (and all drugs approved by the Food and Drug Administration) being used according to the operator's discretion or give up the use of antibiotics. The resulting rule concluded that organic livestock could never be treated with antibiotics. Sick animals treated with antibiotics must be slaughtered and sold as conventional produce or diverted to a conventional operation.

Now that the standard is in place, the US organic community defends it as a better interpretation of organic principles than that of the EU. Once standards are entrenched they become very difficult to shift as farmers, processors, consumers, and entire systems of production become invested in them. Negotiations over other livestock standards have also been intractable with both sides defending their own standards as a better interpretation of what constitutes organic. These include the use of manure from 'factory farms' as fertilizer and animal feed standards. The US does not restrict manure use based on its source yet requires 100 per cent organic feed for livestock. The EU, conversely, prohibits manure from extensive husbandry and factory farms, but allows up to 60 per cent non-organic feed in 'conversion feed'.

Current Complexity and its Costs

Governments, traders, and certification institutions have developed complex pathways to facilitate trade despite a lack of full harmonization. These include compliance, mutual recognition and equivalence-based mechanisms. The EU grants equivalency to foreign countries (called 'third country' status) and mandates that all member states allow imports from these countries. As of April 2008, seven countries have been accorded this status - Argentina, Australia, Costa Rica, India, Israel, Switzerland and New Zealand. The EU also allows the member states' 'competent authorities' with jurisdiction over organic production to authorize importers (called 'importer derogation'). This has been the predominant import mechanism. Each importer must obtain a separate authorization for each imported product. It is up to each country, and in some countries each state, to interpret the requirements of importer derogation, thus inhibiting the flow of imported goods between EU member states (Cummins and Kung Wai, 2003, p. 113). As a result of the 2007 organic revision in Regulation 834/2007, the European Commission will also begin directly accrediting certification bodies in third countries to certify to EU standards.

Direct accreditation of foreign certification agencies by the USDA is the predominant import mechanism in the US. Forty foreign certification
bodies are accredited, meaning that the products they certify, regardless of where they are produced, can be imported and labelled as USDA organic. The USDA also grants foreign governments the ability to accredit certification agencies to USDA standards. This requires the USDA to ascertain that the foreign government’s assessment of certification agencies is trustworthy and technically sound. Thus, certifiers are “approved” but not directly accredited by the USDA. Finally, the USDA can grant (but has not yet done so) equivalency to another country’s organic standards.

The current complexity of these trade pathways reduces efficiency, leads to the proliferation of “back door” tactics to move goods (Cummins, 2003, p. 109) and increases policy rents as producers seek multiple certifications to gain access to different markets (Bowen, 2002, p. 200). The situation has been described as a “nightmare” for producers in developing countries who often do not have the technical or financial capacity to maintain multiple certifications. Governments have not recognized private multilateral agreements, such as the one that exists among IFOAM-accredited certification bodies.

**International Processes and Institutions**

Achieving harmonization across the EU and US—let alone other jurisdictions—is a vexing problem, for it must address not only substantive standards, but also “compliance assessment systems,” that is, the mechanisms within each jurisdiction of assessing operators against substantive standards. International institutions and processes will likely be critical in achieving a more harmonized global system. Harmonization to existing international standards, not just direct equivalency between US and EU standards, would help equalize access for developing country producers.

The Codex Alimentarius Commission is one important source of international organic standards. The Codex standards are not binding in any way, but in 1995 they took on new legal importance in international trade law through two agreements of the World Trade Organization. The Sanitary and Phytosanitary Agreement and the Technical Barriers to Trade Agreement explicitly designate Codex as a legitimate source of food standards, so that countries that use Codex standards are free from legal challenge (Winickoff and Bushey, 2010). With the aim of facilitating the harmonization of organic standards at the international level in order to promote free trade, prevent misleading claims and ensure fair trade practices, Codex issued its own organic guidelines in 1999. The Codex standards incorporate criteria from both the US and EU, however, they have done little to harmonize the two systems (Bowen, 2004, p. 44). For instance, Codex sides with the EU on the contentious issue of livestock.

The IFOAM Basic Standards are another promising institutional model to promote harmonization. They carefully negotiate a path between the general and specific, allowing regional variation while preserving legitimacy and trust. Furthermore, the IFOAM Accreditation Program has accredited over 30 different certification bodies whose network has begun to streamline trade. Certifiers must meet the IFOAM Basic Standards and comply with the IFOAM accreditation criteria. These criteria are based on elements of the ISO Guide 65 for certification programmes, and they contain other criteria specific to organic inspection and certification (Bowen, 2006, p. 34). The IFOAM accredited certifiers grant each other functional equivalence through a multilateral agreement, thereby accepting products certified by one another despite differences in standards (Bowen, 2004, pp. 31–34).

IFOAM decision-making is not integrated with government institutions, and therefore the IFOAM Basic Standards have less purchase as a baseline standard for governments to develop or judge equivalency. Still, the IFOAM Basic Standards represent an open, consensus-building process involving a wide range of stakeholders interested in the development of organic farming, including producers, consumers, advocacy groups, scientists and educators. In this respect, IFOAM is “uniquely placed to maintain and revise international organic standards, drawing on the expertise and knowledge of its members and other interested parties” (Courville, 2006, p. 210).

IFOAM has taken the lead in constituting organic standards in the international sphere by initiating a task force on harmonization in collaboration with the Food and Agriculture Organization and the United Nations Conference on Trade and Development. The International Task Force on Harmonization (ITF) has undertaken research and convened stakeholders since 2002 to identify challenges and opportunities for harmonization. Their work has included examining and forging common definitions, developing a database system for cross-referencing comparisons of different organic standards and undertaking a comparative analysis of IFOAM, Codex, EU, US and Japanese regulations (ITF, 2008). The principal outcomes of the ITF process are two regulatory tools: EquiTool, an international guideline for determining the equivalence of organic standards; and the International Requirement for Organic Certification Bodies, a reference for determining the equivalence of requirements for such bodies.

**POLICY RECOMMENDATIONS**

Considering the deep cultural specificity of food and food regulation, organic produce has achieved striking success as a regulatory category.
For this reason, along with its explicitly environmental dimensions and international reach, it creates both a regulatory paradigm and a landscape for the development of future eco-labels. The organic case is interesting for theories of transatlantic regulatory culture in part because these cultures converged to recognize similar process-based and precaution-based standards. Nevertheless, small but recalcitrant differences have inhibited the achievement of an efficient and market-promoting equivalency. This lack of harmonization is costly not only for consumers and producers in the US and EU, but also for developing country producers who often lack the technical or financial capacity to pursue multiple accreditations, certifications and approvals for export.

The comparative analysis of organic standards in each jurisdiction, and of existing efforts at harmonization, gives rise to a number of policy recommendations. These apply both to future organic harmonization efforts as well as to future cooperative efforts on other environmental labelling schemes.

1) The EU and US should recommence equivalency negotiations with an eye towards underlying organic principles. A good deal of the differences in standards between the US and EU are a result of regional ecological and geographical variations as well as cultural differences in the interpretation of organic principles (Earley, 2006, p. 50). The US and EU would do well to identify which criteria diverge because of ecological or cultural differences, yet still preserve fundamental organic principles. Specific focus should be placed on the three main impasses discussed above – the approach to the farm unit, the lists of prohibited and allowed inputs, and criteria for livestock operations. Identifying regional variations acceptable to all stakeholders could allow regional specificity under the umbrella of a broad international standard. The ITF could provide technical assistance in this regard.

2) Next, the EU and US equivalency negotiations must proceed alongside a continuing process to promote a globally harmonized system that integrates public and private institutions. Harmonization efforts must build upon important work that has occurred in international bodies and fora – especially Codex, IFOAM and ITF – and work robustly between the public and private actors. Public-private participation should be improved in decision-making for both Codex and IFOAM in order to increase communication and cooperation between governments and private-sector institutions. Therefore a stronger bridge must be built between the private-sector efforts of IFOAM and ITF and the public institutions such as Codex and state governments. Linking a new series of ITF efforts through Codex would be one way to bring governments directly into the productive process initiated in 2003 by the ITF.

3) A related point focuses on legitimacy and the role of non-state actors. With their close connection to environmental social movements, organic issues are politically charged. If harmonization results in a decline in consumer trust in organic produce, it will be self-defeating. As a general matter, governments should take seriously the involvement of movement and industry actors in the development and revision of organic standards. The high level of consumer buy-in maintained by organic labels stems from the fact that institutionalized organic standards have emerged from a bottom-up process. Public participation mechanisms could be formalized in the harmonization processes proposed above, and could be a vehicle for synthesizing private and public standards.

4) Finally, as the first successful, agricultural eco-label, the history of organic regulation carries lessons for future eco-labels related to biodiversity, carbon footprint, biosafety and other environmental issues. The previous point about developing open and consensus-driven procedures applies more generally for emergent forms of voluntary eco-labelling. Like organic initiatives, new eco-labelling systems will probably be voluntary and emerge from private networks of consumers and producers. We have already seen this with other labelling programmes such as fair trade, the Forest Stewardship Council and Marine Stewardship Council. The state should enter with extreme caution and only with the deep participation of movement actors. For state oversight of voluntary eco-labelling programmes, procedures should include all kinds of stakeholders interested in the development of the eco-label, including producers, certifiers, consumers, advocacy groups, academics, scientists and so on, and the government’s role should primarily be in the area of consumer protection and preventing fraud. As labels develop, state oversight of labelling claims becomes important to prevent abuses, but also threatens to make standards less flexible and internationally mobile. International convergence is more likely to occur on less contentious issues where the balance of trade implications is not as pronounced. Such conditions present low hanging fruit to motivate greater EU-US cooperation on environmental regulation.

NOTES

1. See the chapter by A. Alemanno, "How to get out of the transatlantic regulatory deadlock over genetically modified organisms?", in this volume; see also the chapter by
Food labels and the environment

23. See Raymonds (2004), pp. 75–43; Courville (2006), pp. 207–99; see also the chapter by Azel Mraz and Jan Wouters, 'Transatlantic regulatory cooperation: Conclusions and implications' in this volume, for further discussion of food standards presenting burdens and barriers to market entry for developing country producers.
24. Codex was established in 1962 as a joint FAO/WHO intergovernmental body with the objective of protecting consumer health and facilitating international trade in food through the harmonization of food standards on a worldwide basis.
25. Codex has been influential in Japan, a third leading of organic regulation and production. See Bowen (2009), p. 42.
26. Derived from the personal interview with Katherine DiMatteo, op. cit.
27. Derived from the personal interview with Jim Riddle, op. cit.

BIBLIOGRAPHY


