Chapter 15

Japan's Regulations Affecting the Labelling of Organic Plant Products

This chapter describes in detail Japan's regulations for the labelling of food products from plants as organic, including details concerning the modalities of certification and accreditation of foreign suppliers.

Introduction

Over the last decade, consumers in Japan have come to attach great importance to the safety of their food. In response, on 1 April 2001 the Japanese government implemented a mandatory regulation on organic plant products, both raw and processed, as part of the Japan Agriculture Standards (JAS) system, a comprehensive package of measures that establishes various standards for agricultural products. The main purpose of these regulations was to provide domestic consumers with trustworthy information, by way of labelling, on both imported and domestic foods.

Japan depends greatly on imported agricultural products, especially for ingredients for processed products. This is also the case for organic foods. Offers for sales of organic produce at Foodex, the largest food and beverage trade show in Asia and the Pacific Rim, have shown a rapid increase in recent years. Exact sales figures are not available, because statistics on organic products are not yet segregated from sales of conventional products, but most sources value Japan's market at between USD 3.7 billion and USD 4.5 billion in 2000 and growing at a rate of around 15% a year (MRS/CTCS, 2001). Leading exporters to Japan are the United States, China, Canada, Thailand and Brazil.

Sales of organic foods and beverages in Japan are approaching USD 4 billion a year and growing by 15% a year. A large share of that market is expected to be supplied by imports. Many nearby Asian developing countries have expressed an interest in accessing this rapidly growing market. China, for example, hopes to make use of the country's large domestic labour force to produce organic products that are more costly to produce elsewhere. However, as many cases of fraudulent use of the JAS standard and labelling have been reported lately, requests for stringent application of the JAS system, including to organic labelling, has increased. For example, some processed foods made from organic agricultural products and bearing the Organic JAS mark, imported from China, were found to contain more than the maximum residual level of pesticides stipulated under Japan's Food Sanitation Law. This proved to be caused by the mixing of organic with non-organic foods. Measures have been taken to prevent such occurrences in future.

While Japan's production standards for organic foods follow quite closely established international standards, requirements relating to the qualifications of operators (*i.e.* farmers, processors, repackers and importers) put considerable emphasis on procedures and criteria to be used by the person in charge of "grading" and on maintaining an audit trail. Nonetheless, compared with other national organic regulations, Japan's contains some features that allow for greater flexibility in meeting its requirements.

Development of the measure

Organic foods have been rising in popularity in Japan over the last decade. However, as in other countries, the market for organic products was until recently self-regulated, which meant that there was no mandatory system for verifying producers' claims that their products were "organic" or "chemical-free". From the late 1980s through 1992, a few Japanese traders, wishing to export organic products to the United States and Europe, applied for certification with foreign certifying bodies. However, certification for Japan's internal market remained rare.

The initial response of Japan's Ministry of Agriculture, Forestry and Fisheries (MAFF) was to develop voluntary guidelines for organic labelling, which it issued in

April 1992. Over the next five years, organic certification expanded in Japan, especially among processors and traders. A few Japanese bodies were established to certify according to International Federation of Organic Agriculture Movements (IFOAM) (www.ifoam.org/) or US private-sector organic standards, but most operators sought certification from certifying bodies based in the United States. However, the voluntary guidelines did not prevent operators from putting non-organically produced products on the market and calling them organic. This created pressure to develop mandatory national standards. Both producers, who sought protection from unscrupulous competitors, and consumers, who wanted assurance that the labelled products they were buying were, in fact, produced using organic methods, supported the idea.

In 1998 MAFF decided to establish a national organic regulation within the Law concerning Standardisation and Proper Labelling of Agricultural and Forestry Products (Law 175, known as the JAS Law).[1] Two external factors influenced this decision. The first was the fact that both the EU and the United States had developed, or were in the process of developing, their own national organic regulations. Even though Japan was primarily an importer of organic produce, it exported some organic products to the EU.[2] The Japanese administration was also influenced by ongoing discussions in the Codex Alimentarius Commission, which eventually led to the publication in 1999 of international guidelines for organic products (CAC/GL 32-1999).

While developing its organic labelling regulations, the Japanese government kept citizens informed of developments and provided opportunities for the public to express their views. Japan notified the WTO's Committee on Technical Barriers to Trade ("TBT Committee") of its intention to revise the JAS Law, including its organic standards, on 30 March 1999, and set a final deadline for comments of 7 May 1999 (Japan, 1999a).[3] The revised law was passed by the Diet in July 1999 and notified to the TBT Committee on 22 October 1999, with a deadline of 15 December 1999 for comments (Japan 1999b and 1999c). During this time, MAFF provided English-language summaries of texts of the revised Law and draft regulations upon request. Five weeks after the deadline for comments, MAFF promulgated on 20 January 2000 detailed regulations based on the Law, Notification 59 for organic plant products and Notification 60 for processed foods made from organic plant products. The regulations went into effect on 1 April 2001.

In Japan, some producers expressed frustration at the short amount of time available for comments on and revisions of the proposed regulation.[4] Some Japanese farmers appear to have regarded the JAS Law standards as too closely based on European and US conditions and therefore not fully compatible with Japanese conditions. In fact, the Japanese organic standards were patterned on international guidelines and standards, such as the Codex Alimentarius's guidelines and the IFOAM Basic Standard. Many Japanese organic farmers were also worried about competition from imported organic products. A few farmers, unable to obtain certification, ceased using organic methods. Nonetheless, the total number of organic certifications in Japan has increased since the JAS law took effect (Table 15.1).

1. The Law which dates from 1950, protects consumers' rights to information about food products.

2. The EU organic regulation (EEC 2092/91) has triggered organic regulations in a number of countries; see Chapter 14.

3. The deadline was later extended to 22 May 1999.

4. Mutsumi Sakuyoshi, Vice President of the Japanese Organic Inspectors Association, personal communication with Gunnar Rundgren, April 2002.

Table 15.1. Entities certified to apply the JAS organic seal to food products

Numbers as of 18 October 2002 and 31 January 2004[1]

Based in	Farms and farmer groups		Processors or manufacturers		Repackers		Importers		Total	
	October 2002	January 2004	October 2002	January 2004	October 2002	January 2004	October 2002	January 2004	October 2002	January 2004
Japan	1 479	1 939	702	871	422	601	86	107	2 689	3 518
Foreign countries	197	316	198	327	40	60	n.a.	n.a.	435	703
Total	1 676	2 255	900	1 198	462	661	86	107	3 125	4 221

1. Column headings in the original source document for 2004 are "production process managers", "manufacturers", "subdivision vendors" and "importers".
n.a. = not available.

Sources: 2002: Based on internal MAFF sources; 2004: MAFF (2004), p. 9.

The regulations apply only to organic plant products and processed products thereof. Livestock products, cosmetics, natural medicines and alcohol were not included. The regulations also specify that the word "organic" (*yuki* in Japanese) may not be used on its own, but only in conjunction with the JAS Organic Mark (Figure 15.1). These regulations apply to the labelling of products but not to marketing claims on leaflets, advertisements or similar printed material. In addition, they set out criteria for: the registration of certification organisations; for the four categories of certified operators (farmer, processor or manufacturer, repacker or sub-divider, and importer); and for inspection methods.[5]

Figure 15.1. The official JAS organic mark

As with all organic standards, the JAS organic standards relate not to the properties of the final product itself, but to the way in which the products are produced and processed from the farm to final packaging. In that respect they adhere rather closely to the Codex Alimentarius Guidelines and the IFOAM standards. The major difference between the JAS system and other systems is the emphasis it places on the qualifications of the so-called "Grading Manager", the person responsible for "grading".[6] This person must complete a special course. In this regard, the role of the Grading Manager is similar to that of an internal auditor, as defined in the International Organization for Standardization's (ISO) 10011 series of standards.

Only certification organisations registered by MAFF, known as registered certification organisations (RCOs) or registered foreign certification organisations (RFCOs) in Japan, can certify operators. When applying for registration, an R(F)CO must

5. Notifications 808, 818, 819, 820, 821 and 830, respectively, all issued on 9 June 2000.

6. In the JAS organic system, "grading" is used as a term for the act of qualifying a product as organic.

notify the categories in which it wishes to obtain authority to certify. As of November 2002 there were 63 RCOs registered within Japan and 12 outside Japan.

There are currently three ways (Figure 15.2) for agricultural products to qualify for the JAS organic mark (MAFF 2002; 2004):

1(a) *Certification by a registered certification organisation in Japan.* An RCO based in Japan certifies the production or processing, or both, in the exporting country. Currently around ten organisations offer certification of foreign operators. Once certified by the RCO, the foreign operator can affix the JAS organic label to its products.

1(b) *Certification by a registered foreign certification organisation in the exporting country*. To register as an RFCO, the foreign organisation must be based in a country that is deemed by MAFF to have a system equivalent to that of Japan. In addition, it must pay a fee[7] to, and be registered with, MAFF. An RFCO can also certify in countries (apart from Japan) other than the country in which it maintains its primary business establishment, provided that the said foreign countries are included in "the area where certification service is carried out" at the time of application of registration.[8] There is no requirement that these other countries have a system that has been deemed to be equivalent to that of Japan's. Once certified by the RFCO, the foreign operator can affix the JAS organic label to its products.

2. *Recertification of imports.* The production or processing, or both, of organic raw material is certified by a certification organisation based in the exporting country, while the Japanese importer is certified by an RCO in Japan. The RCO assesses conformity with the JAS for organic ingredients to be used in organic processed foods. The certified Japanese processor (who is also the importer) affixes the JAS organic label. This option can only be used for raw materials that undergo further processing. It cannot be used for ready-made products, or for products that are re-packed in Japan.

3. *Use of contracted inspection services.* R(F)COs may delegate inspections to certification organisations in exporting countries through a "trust contract of providing inspection data", provided that the certification organisation conforms to the following requirements:

> The organisation is recognised or registered as a certification body by the government of the country, the local government, or an international organisation with established reliability, such as the International Organic Accreditation Service (IOAS).[9]

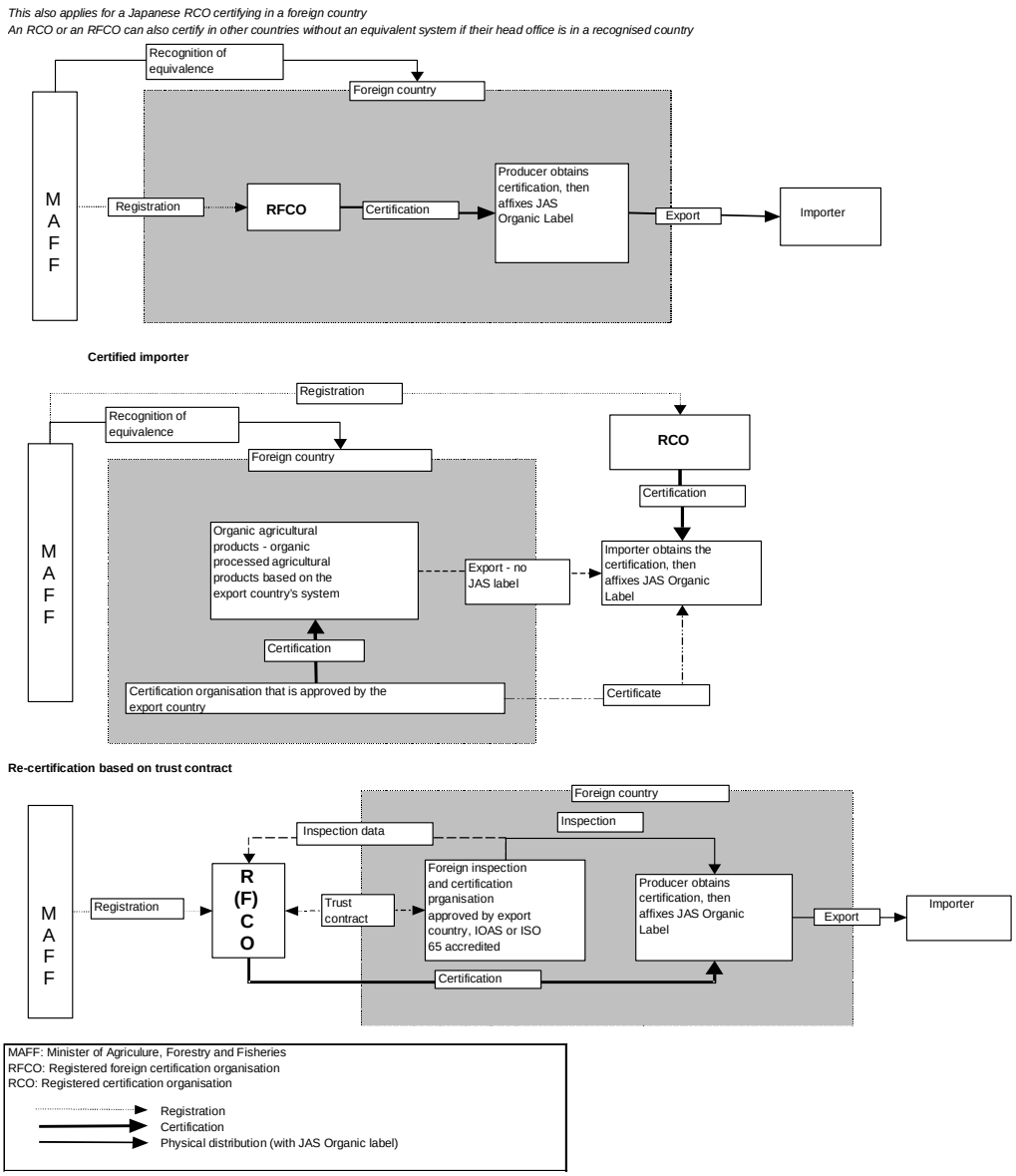
7. Registration is valid for five years and can be renewed. The fees are JPY 51 200 (USD 415) for an initial registration and JPY 37 200 (USD 302) for a renewal. In either case the applicant must cover the travel expenses for two auditors from Japan. If the applicant is engaged in the business of grading (*i.e.* certification) and is accredited by the country in which it operates, then the initial fee is JPY 60 500 (USD 490), and the fee for renewal is JPY 45 500. In either case the applicant must cover the travel expenses for two auditors from Japan. See Article 25 of the Enforcement Ordinance of the JAS Law.

8. For example, NASAA (an Australian certifying body) is registered by MAFF to certify throughout the world.

9. The latter is the entity that performs IFOAM accreditation according to IFOAM Standards and Criteria for certification.

The organisation has considerable experience as a certification body for organic foods.

Figure 15.2. Certification by registered foreign certification organisation (RFCO)



Issues raised by developing country exporters

Producers, importers, inspectors and certification organisations had just under a year (*i.e.* until 1 April 2001) to prepare for the new labelling laws. However, organic ingredients used as raw materials in processed products could enter the country under less stringent provisional measures until the end of March 2002.

Naturally, producers and exporters in other countries faced an even greater challenge in coming to grips with the new regulations, given the initial need to translate the relevant documents (assuming that they knew a regulation was about to be passed). The rules and

some of the guiding documents were eventually translated into English from October 2000 to March 2001, but some foreign exporters found the terminology in these documents unfamiliar (*e.g.* "grading"). Indeed, in at least one case MAFF had to issue a revised (unofficial) translation to correct mistakes in the previous translation.

The JAS system stresses the neutrality, fairness and reliability of grading and certification services, with a view to ensuring protection of consumers. This principle also applies to the accreditation of RFCOs and to the criteria used by MAFF when examining equivalency to the JAS system. These criteria require evidence that the foreign government's grading system is being properly implemented and that its label is reliable (*i.e.* that there are adequate means of detecting fraudulent use). Given the rapidity with which Japan recognised the organic standards of Australia, the EU and the United States, the procedures appear not to be particularly onerous, at least for developed countries with well-established organic rules. Australia received a determination of equivalency in March 2001, and currently five of its certification bodies have been registered as RFCOs (JASA, 2002). The EU reached an agreement with Japan in March 2001, and in early 2002 the first of the EU organisations (in Austria) was approved. Since then, around 15 additional EU-based certification bodies have been registered. The United States negotiated recognition of its organic products soon after the regulations went into effect. A temporary agreement was reached in 2001, and in March 2002 a final determination was made. Henceforth, plant-based agricultural products exported from these countries that have been certified as meeting their own domestic organic standards may be labelled or represented in Japan as organic subject to the further requirement that they are recertified by a registered importer.[10]

Organic producers and processors in developing countries wishing to export their products as "organic" to Japan, however, have other options. Just five governments of developing countries have implemented rules for organic agriculture within the region: China, India, Korea, Chinese Taipei and Thailand (Table 15.2). Only India and Thailand have so far applied for examination of equivalency. Until equivalency is recognised, potential exporters in these and other countries have the choice of: certification by a (Japan-based) RCO or an RFCO that was already operating in their country when it applied for registration from MAFF; or finding an IOAS-accredited certification organisation in its country with which an RCO or RFCO would be willing to enter into a trust contract.

Even though China has enacted an organic law, and has established its own certification body, its producers appear mainly to have used the first option outlined above. Chinese producers expected that the establishment of a labelling system for organic foods in Japan would give them more chances to sell organic foods with added value. They have made intensive efforts to obtain Japanese certification for their organic foods and, as a consequence, 100 producers had been certified by June 2002. However, a few Japanese organic certifiers, such as JONA (Japan Organic & Natural Foods Association) and NOAPA (Nippon Organic Agricultural Product Association), have

10. The equivalency agreements with the EU and the United States stipulate several minor conditions. Under Japan's agreement with the EU, calcium chloride may not be used in raw or processed organic food exported to Japan, even though the substance can be used in the EU. Under its agreement with the United States, alkali-extracted humic acid, lignin sulfonate and potassium bicarbonate may not be used in raw or processed organic food exported to Japan, even though these substances are allowed under the US organic standards. Alkali-extracted humic acid and lignin sulfonate are non-biodegradable plant or soil amendments; lignin sulfonate is also used as a floating agent in post-harvest handling. Potassium bicarbonate is used principally in the control of plant diseases.

investigated co-operative arrangements with Chinese certifiers, which could eventually lead to recertification based on a trust contract.

Table 15.2. Status of organic regulations in southern, south-eastern and eastern Asia, beginning of 2002[1]

Country	National regulation in place?	Stage of implementation if not yet in place
Bangladesh	—	No initiative
Bhutan	—	No initiative
Cambodia	—	No initiative
China	Yes	—
Chinese Taipei	Yes	—
Hong Kong, China	—	Completed protocol of practice
India	Yes	—
Indonesia	—	Early consultation and drafting of regulation
Japan	Yes	—
Korea	Yes	—
Laos	—	No initiative
Malaysia	—	Has finalised standards
Mongolia	—	No initiative
Nepal	—	No initiative
Pakistan	—	No initiative
Philippines	—	Early consultations
Sri Lanka	—	No initiative
Thailand	Yes?	Finalising inspection and certification system
Vietnam	—	—

1. Three countries contacted provided no information: Myanmar (Burma), North Korea and Papua New Guinea.

Source: The Organic Standard, Issue 10, February 2002, p. 7

Most of the documented allegations of implementation problems have come from the United States, the leading exporter of organic foods to Japan. One US operator has complained that it had to recertify all its facilities to the JAS standard, at a cost of over USD 20 000 in the first year (Weinberg, 2002). According to this source, it would need to qualify, train and appoint a grading manager for each plant it operated, at an additional cost of time and money. Furthermore, it was required to develop a redundant standard operating procedure and grading report for each facility so that its existing audit trail could be recognised as JAS-compliant.

Responses to developing-country concerns

Japan has supported the development of export-based organic agriculture in several developing countries by providing advice on how to establish organic regulations. For example, the person in charge of administering Japan's organic standards visited Thailand

in January 2001 to explain the Japanese system and to support the establishment of an equivalent Thai system.[11]

Concluding observations

Any mandatory labelling regulations can potentially create barriers to, and opportunities for, trade. This case study illustrates both. On the opportunity side, many domestic producers, who had previously claimed that their products were organic, are no longer be able to make such claims as a result of the new regulations. This is expected to provide opportunities for foreign suppliers to "fill the gap" left by lost domestic production. Moreover, because the drafters of Japan's standards were guided by key international texts, most particularly the Codex Alimentarius Commission's guidelines and IFOAM's Basic Standard, farmers in countries that have also followed these guidelines should face minimal problems in complying with those parts of the regulations relating to production practices. Integration into a general framework regulation simplifies the situation for exporters that are familiar with other Japanese requirements.

The primary route for exporters to break into the Japanese market — recognition of other countries' standards as equivalent — is straightforward (at least for developed countries) and does not even require reciprocal recognition.[12] In the short to medium term, however, exporters in most developing countries within the region cannot avail themselves of that option. Formal equivalency of national standards can be recognised only where such standards exist, and so far very few countries in Asia have adopted national standards. Local certification organisations (to the extent that they exist) therefore stand little chance of attaining the status of an RFCO; most producers will be forced to apply to an RCO or an RFCO for direct certification. Moreover, because only a few of the RCOs or RFCOs operating in other countries have local inspectors stationed in the exporting countries, they generally have to send inspectors from their head offices, which increases costs.[13] Other special aspects of the JAS system, with its requirement for a designated "grading manager" and its stringent procedural requirements, are also likely make compliance more difficult in developing countries, especially for small or medium-sized enterprises, with a limited number of staff.

The Japanese system does, however, allow for the possibility of "trust contracts" between an approved certification organisation and other certification organisations. This means, in effect, that the establishment of equivalence can be delegated to the private sector. Recognition of the competence of the IOAS (IFOAM) Accreditation Programme also supports this approach. It is particularly important for those developing countries that have not yet developed their own national organic standards, or whose standards may not be compatible with Japan's. Many producers and processors in developing countries, including China, have already exported organic foods to Japan through this procedure.

11. Hiroshi Tatsuguchi, Deputy Director in charge of organic food system, Standard and Labelling Division, General Food Policy Bureau, Ministry of Agriculture, Forestry and Fisheries, personal communication with Gunnar Rundgren, April 2002.

12. For example, the equivalency is recognised in only one direction in two cases: Japan recognised the equivalency of the certification systems of the United States and the EU without delay. The examination of equivalency for the Japanese system, currently taking place in the United States and Europe, has by contrast made little progress despite Japan's frequent requests.

13. Mutsumi Sakuyoshi, Vice President of the Japanese Organic Inspectors Association, personal communication with Gunnar Rundgren, April 2002.

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Acronyms

APHIS	Animal and Plant Health Inspection Service (US)
AQIS	Australian Quarantine and Inspection Service
ASEAN	Association of South-East Asian Nations
BAuA	Federal Institute for Occupational Safety and Health (Germany)
BGA	Federal Health Office (Germany)
BMZ	Ministry of Economic Co-operation and Development (Germany)
CAA	Clean Air Act (US)
CASCO	Committee on Conformity Assessment (ISO)
CBI	Centre for the Promotion of Imports from Developing Countries (Netherlands)
CFC	Common Fund for Commodities
CFC	Chlorofluorocarbons
COLEACP	Europe-Africa-Caribbean-Pacific Liaison Committee
CREM	Consultancy and Research for Environmental Management (Netherlands)
CsC	Commonwealth Science Council
CSE	Centre for Science and Environment (India)
CTE	Committee on Trade and Environment (WTO)
CTF	Consultative Task Force (UNCTAD)
DSB	durian seed borer
EEA	European Economic Area
EFTA	European Free Trade Association
EIA	environmental impact assessment
EPA	Environmental Protection Agency (US)
EPE	European Partners for the Environment
ESA	Endangered Species Act (US)
FAO	Food and Agriculture Organization (UN)
FDA	Food and Drug Administration (US)
FDI	foreign direct investment
FSC	Forest Stewardship Council
GAA	Global Aquaculture Alliance
GATS	General Agreement on Trade in Services

GATT	General Agreement on Tariffs and Trade
GTZ	Agency for Technical Co-operation (Germany)
HACCP	Hazard Analysis and Critical Control Point
IAF	International Accreditation Forum
ICSF	International Collective in Support of Fishworkers
IDM	integrated disease management
IFC	International Finance Corporation
IFCO	International Fruit Container Organisation
IFOAM	International Federation of Organic Agricultural Movements
IGEP	Indo-German Export Promotion Project
IGG	Intergovernmental Group on Tea (FAO)
IGO	intergovernmental organisation
IIED	International Institute for Environment and Development
ILAC	International Laboratory Accreditation Cooperation
ILO	International Labour Organization
IOAS	International Organic Accreditation Service
IPCS	International Programme on Chemical Safety
IPM	integrated pest management
IPPC	integrated pollution prevention and control
IRA	import risk analysis
ISEAL	International Social and Environmental Accreditation and Labelling Alliance
ISO	International Organization for Standardization
ITF	International Task Force on Harmonisation and Equivalence in Organic Agriculture
ITTO	International Tropical Timber Organization
IUC	International Union Chemical testing
JAS	Japan Agriculture Standards
JETRO	Japan External Trade Organization
JWPTE	Joint Working Party on Trade and Environment (OECD)
LDC	least-developed country
LOD	lower limit of analytical determination (or limit of detection)
MAFF	Ministry of Agriculture, Forestry and Fisheries (Japan)
MAP	Mangrove Action Project
MEA	multilateral environmental agreement
MLV	maximum limit value
MRA	mutual recognition agreement
MRL	maximum residue limit

MSC	Marine Stewardship Council
NGO	non-governmental organisation
NMFS	National Marine Fisheries Service (US)
NOP	National Organic Program (US)
NOSB	National Organic Standards Board (US)
NTAE	non-traditional agricultural export
ODS	ozone-depleting substance
OFPA	Organic Foods Production Act (US)
PCP	pentachlorophenol
ppm	parts per million
PVC	polyvinyl chloride
RCO	Registered Certification Organisation (Japan)
RFCOs	Registered Foreign Certification Organisations (Japan)
RIA	regulatory impact analysis
SCS	Scientific Certification Systems, Inc.
SGS	Société Générale de Surveillance S.A.
SMEs	small and medium-sized enterprises
SPS	(WTO Agreement on) Sanitary and Phytosanitary Measures
STIC	Sustainable Trade and Innovation Centre
TBT	(WTO Agreement on) Technical Barriers to Trade
TEAP	Technology and Economic Assessment Panel (UNEP)
TED	turtle-excluder device
UNCED	United Nations Conference on Environment and Development
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNIDO	United Nations Industrial Development Organization
USAID	US Agency for International Development
USDA	US Department of Agriculture
VOC	volatile organic compound
WHO	World Health Organization
WSSD	World Summit on Sustainable Development
WTO	World Trade Organization
WTTC	World Travel and Tourism Council

Table of Contents

GOVERNMENT REGULATIONS TRANSLATING INTERNATIONALLY AGREED STANDARDS

GOVERNMENT REGULATIONS AFFECTING TRADE IN PRODUCTS OF ORGANIC AGRICULTURE

PRIVATE INDUSTRY AND NGO INITIATIVES