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U.S. and Canada Sign Organic Agriculture Trade Agreement

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Despite the current economic downturn, domestic sales of USDA certified organic food products grew 15.8% in 2008. Moreover, a 2009 study commissioned by the Organic Trade Association found that 31% of U.S. families actually increased their spending on organic during this difficult economic period. Although a sustained recession may dampen growth, two other factors present more immediate challenges: sourcing certified organic ingredients and standards-based trade barriers.

For example, products certified to USDA organic standards may not enter the European Union market under an organic label unless certified to the slightly different E.U. standard. To accommodate these variations, farmers and processors must obtain dual certification, which drives up the cost for all involved. At the international level, the organic industry must confront hundreds of private sector standards and governmental regulations. The proliferation of different standard and certification systems has improved the reliability of the market, but mutual recognition and equivalency among systems is very limited and a major obstacle for continued development of the sector.

Since 1999, Canada (with the exception of British Columbia and Quebec) operated under a voluntary national standard for marketing organic food. This voluntary standard allowed the import of organic products from the U.S. without the burden of dual certification. As a result, organic trade between the U.S. and Canada has flourished. Imported goods comprise approximately 80% of organic sales in Canada, with the U.S., by far, the largest supplier. Canada exports 80% of its own organic production (especially organic wheat, flax and soybeans), with 40% destined for the U.S. These Canadian sourced products serve as essential ingredients for domestic processors.

In December 2006, the Canadian Food Inspection Agency (CFIA) (the Canadian equivalent of the USDA) published draft Organic Production Regulations to establish a mandatory regime similar to USDA's National Organic Program (NOP). Because the Canadian standard differed from the USDA NOP on a few key aspects (e.g., antibiotics in dairy cattle; sodium nitrate; animal stocking rates, sources of off-farm manure), U.S. producers would be shut out of the Canadian market (and processors would lose access to essential Canadian-produced raw materials) unless the respective operations obtained dual (USDA and CFIA) certification as of June 30, 2009—the regulation's effective date.

The USDA organic program, however, allows for the Secretary to recognize foreign organic regimes as “equivalent” to the USDA standard and thus avoid the need for dual certification. Unfortunately, prior attempts to negotiate equivalency agreements with other nations have been unsuccessful—most notably negotiations with the E.U. One barrier to reaching agreements has been the reluctance of the USDA to upset, via

international negotiations, the carefully crafted domestic rules that were the result of 10 years of contentious rule making (Congress passed the Organic Foods Production Act in 1990, but the agency was unable to produce a final rule until 2000).

On June 17, 2009, however, the United States and Canada signed an equivalency agreement recognizing each nation's organic regime (with a few technical exceptions). This agreement, signed less than two weeks before implementation of the Canadian program, eliminated the need for dual certification and should facilitate the continued growth of the organic market in North America. Moreover, the willingness of both countries to recognize that the different regimes perform substantially the same function, in substantially the same way, with substantially the same result, may bode well for reviving negotiations with the critical E.U. market.