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Training Handbook: The New EU Organic Regulation (2018/848) for Producer Groups

Part I: Introduction and Basic Requirements

Version I.3 March 2024



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The publication is available for free download at shop.fibl.org > 1270.

FiBL, Version 1.3, March 2024

About the training handbook

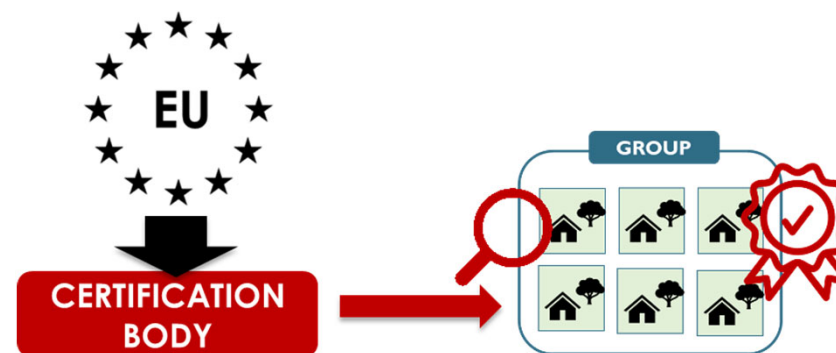
This training handbook was developed for the certified organic Sidama Coffee Farmers Cooperative Union, Ethiopia to understand and apply the requirements of the new EU Organic Regulation. It has been developed as a generic handbook for organic producer groups worldwide, with a focus on perennial crops like coffee in Africa.

The training handbook has been developed based on a careful analysis of regulatory texts by experts and an intense exchange with various stakeholders.

It represents FiBL's status of understanding of the new EU regulatory requirements as per Dec 2023.

Interpretations of the regulators' requirements will evolve as the regulation is being applied in the EU and in third countries.

This handbook aims to summarise and explain the new requirements to groups for training purposes. It is neither a certification standard nor an official EU Guideline.



Certification decisions are always taken by recognised accredited CBs according to their EU approved standard procedures and policies.

Overview of the handbook

The Training Handbook on the New EU Organic Regulation for Producer Groups consists of three parts:

Part 1: Introduction and Basic Requirements

Part 2: Organic Production Rules

Part 3: Internal Control System (ICS)



See separate Part 2 and Part 3

Content Part I

I.1 The new EU Organic Regulation: introduction and key changes

I.2 Definition of a Group of Operators (GoO)

I.3 Implications for currently certified producer groups

I.4 Overview of key changes on ICS and organic production rules

I.5 Overview of key changes in external certification of groups

Acknowledgement: The content in this section is based on the IFOAM Guidance on the new EU regulation for Producer groups which has been developed jointly by IFOAM Organics International, IFOAM Organics Europe and FiBL. The IFOAM guidance has been finalised after legal clarifications with regard to groups in June 2023. This handbook version is based on the final IFOAM guidance of June 2023.



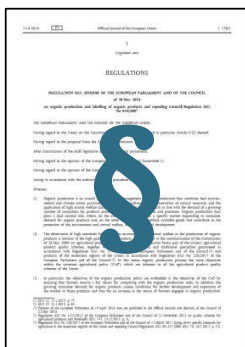
I.1 Introduction to the new EU Organic Regulation and key changes

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Photo: Jane Nalunga

The new EU Organic Regulation



The new Organic Regulation (EU) 2018/848 and its more than 30 secondary acts

- **Aim to strengthen the organic integrity** of production, especially for imported products.
- Completely re-define the **rules and requirements** for group certification
- **Same rules** for operators in EU and worldwide



Is the new EU Organic Regulation already applicable?

EU Organic Regulation is applicable for operators in the EU since:

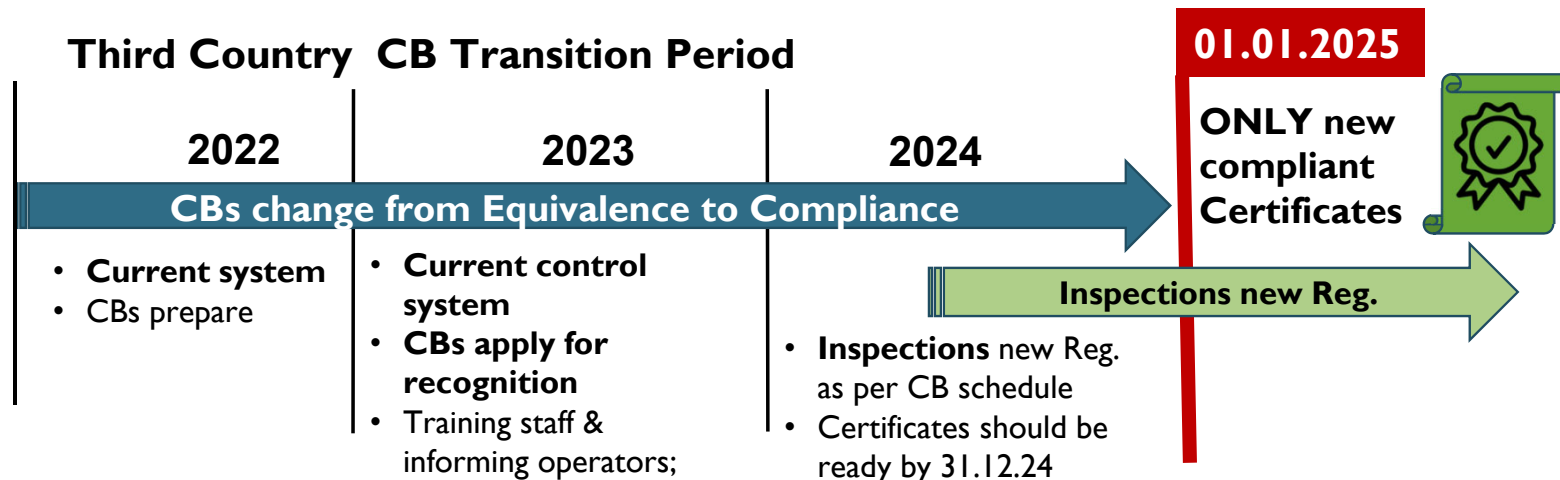


January 2022

BUT there is a transition period for recognised equivalent Control Bodies (CBs) in Third Countries until 31 Dec 2024.

- CBs have to apply to the EU for recognition under the new rules. The first list of EU recognised CB is expected earliest from mid till end of 2024.
- CBs will provide their clients with updates on their program and timeframe for switching to the new regulation.

Third Country CB Transition Period



Overview of the regulation and key secondary acts on group certification



Organic Regulation (EU) 2018/848, esp. Art. 36

Recommended: Use the most up to date partially consolidated version

<http://data.europa.eu/eli/reg/2018/848/2023-02-21>

Particularly important Secondary Acts for Group Certification

Regulation 2021/715 (Jan 2021; included in partially consolidated version) ICS requirements and role of ICS Manager (additions to Art. §36.1 & 36.2)

Regulation (EU) 2021/279 'Control' (Jan 2021)

Group composition, ICS documentation, control and sampling (Art 4-7)

Regulation (EU) 2021/771 (Jan 2021, published May 2021)

Check of documentary accounts and official controls of Groups of Operators

Regulation (EU) 2021/1698: Recognition of Control Bodies in Third Countries

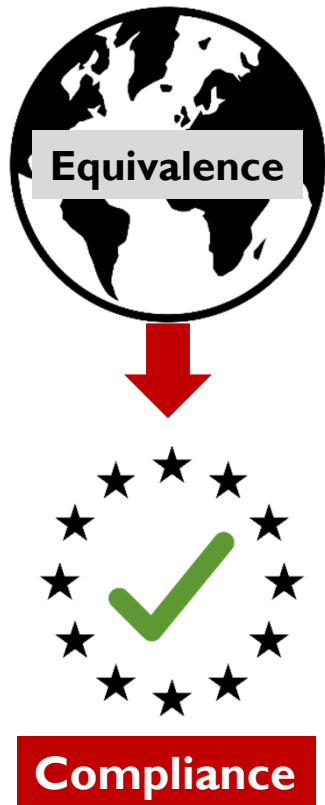
Includes control process in Third Countries outside the EU

Regulation 2021/2119 Records and declarations

EU Commission: Frequently Asked Questions on Organic Rules (since 13.06.2023)

In total there are many secondary acts and a more in the pipeline. This guidance references also some other key regulations. All EU regulations can be found in up-to-date versions in many languages on [EUR-LEX](#).

Key change ‘compliance’



Organic import system changes from «equivalence» to ‘compliance’

- In most Third Countries, groups and operators are certified according to their certifiers’ ‘equivalent organic standards’, adapted to local conditions.
- Operators in ‘Third Countries’ will need to **comply with the same** (very detailed, prescriptive & complex) rules as EU operators.
- Countries recognised as having ‘equivalent’ country control systems (e.g. Tunisia, India) need to re-negotiate a trade agreement with the EU OR change to compliance.

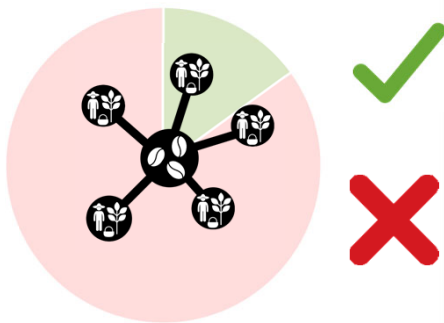
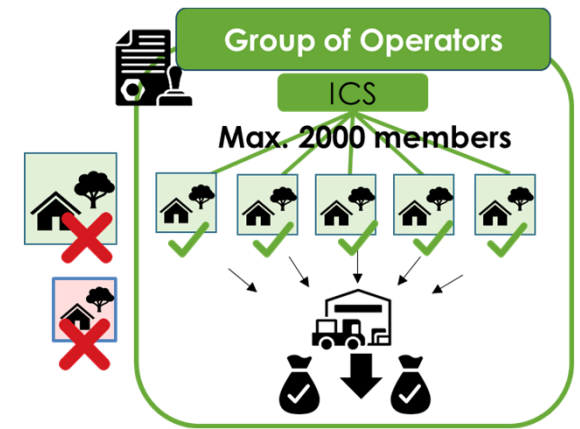
Clearer rules – more level playing fields

No flexibility to adapt to local conditions and realities

Key change: definition of a ‘Group of Operators’

The new Regulation defines the new concept of a ‘Group of Operators’ as a legal entity which is:

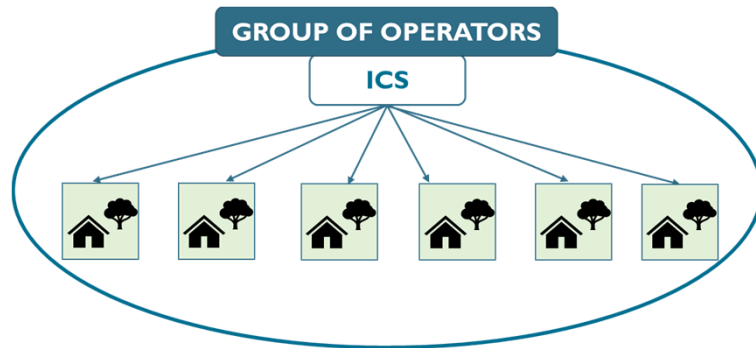
- ✓ composed only of organic or in-conversion farmers as statutory members,
- ✓ who are all under the new farm size/organic turnover limit and
- ✓ up to a maximum of 2000 members



Some certified producer groups meet the EU’s ‘Group of Operator’ definition of Art 36.1. and can be certified as GoO in their current form.

The majority of currently certified groups will need to set up new legal group entities for EU certification. *This includes all contract production groups as well as farmers organisations with non-organic or ‘too large’ statutory members.*

Overview of key changes: ICS & production rules



New ICS Rules

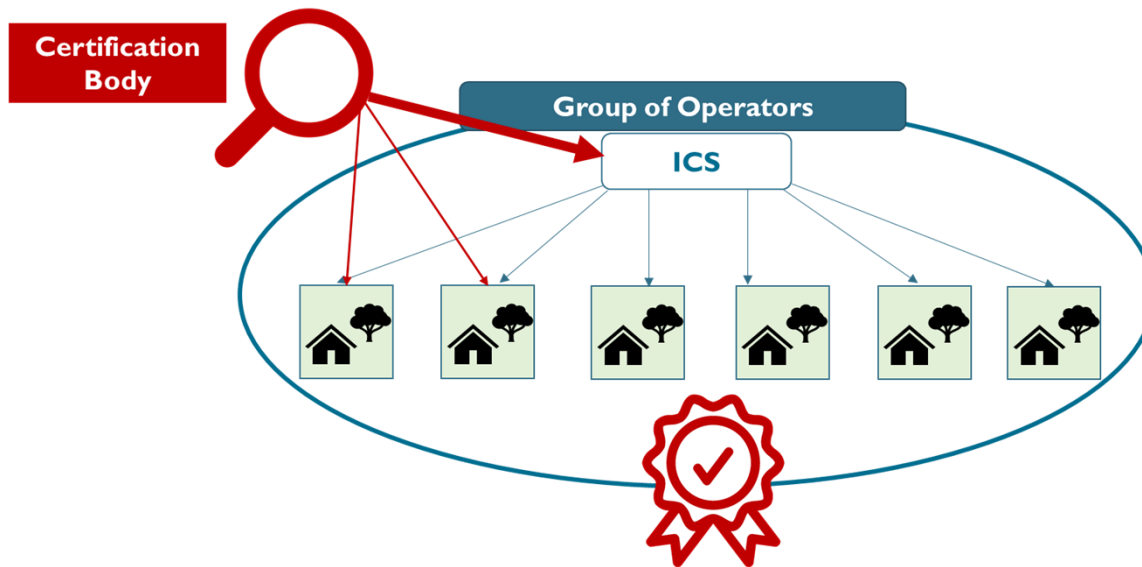
- **Clearer rules**, in line with established best practice; many details may need to be aligned.
- High expectations on quality of ICS.
- The ICS manager has a key role.



Organic Production Rules

- **All detailed EU production rules will need to be fully complied with** (no longer in an equivalent way).
- Rules are stricter in some aspects (e.g. crop rotation & diversity; planting materials, retroactive approval, parallel production).
- New restrictions for plant protection substances in Third countries.

Overview of key changes: external control of groups



- Annual external control of groups:**
- **Minimum 5 % re-inspection** (minimum 10 members) of each group
 - **Residue sampling for at least 2 %** of members of each GoO

Overall stricter control expected, as CBs will need to control ‘compliance’ with the detailed new EU regulatory requirements instead of the current system of ‘equivalence’.

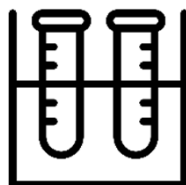
Key changes for all operators in Third Countries



Strong focus on (documented) precautionary measures to prevent contamination & commingling of organic products



Focus on product traceability records & mass balance checks
→ high expectations for records & demonstrated ability to trace lots.



Focus on sampling by CBs & measures in case of detection of any unauthorised substances by operations & CBs. Blocking products while investigating in case of suspected or confirmed presence of non-authorized substances. Official investigation to determine the source & cause.

The EU will define ‘high risk third countries/products’ which will be subject to control twice a year and more intense sampling of operators and consignments each year.

Until 2018/848 applies fully: ‘Additional measures’ for certain third countries and products are defined annually.

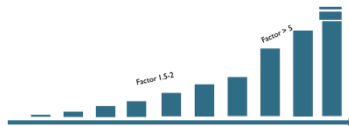


2018/848: Art 28 & 29; ; 2021/2119 Art 2 , 2021/1698 Art. 8 & 11

Expected challenges of the new Regulation



The re-organisation of well established organic smallholder supply chains into separate new group entities **risks to jeopardise business relations, functional structures and organic control integrity.**



Significantly increased certification costs expected for many groups



Lower profitability & increased business risk of organic exports to the EU



‘Compliance’: Understanding and complying with detailed & complex legal European rules will be very challenging for groups worldwide.

Compliance

→ *Groups will need technical and financial support to adapt.*



Group certification rules (and potentially the certified entity) **will differ from all other organic regulations and can cause conflicts with other certifications**

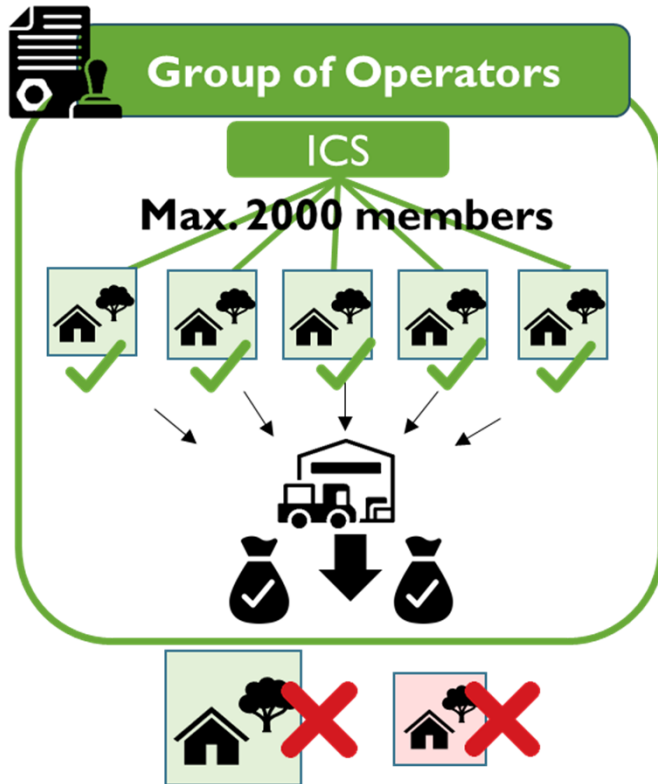
I.2 Definition of a Group of Operators (GoO)

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Photo: Paul van den Berge (FiBL)

Definition of a Group of Operators



Reg. 2018/848 Art. 36.1 (a-e)
+ Regulation 2021/279 Art 4 & 10

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A Group of Operators (GoO)



Is composed only of members

- ✓ who are farmers committed to organic production
- ✓ under a maximum size / turnover limit
(<5 ha total land OR <25'000 € organic turnover).



Maximum 2'000 members per GoO



Has 'legal personality'



Operates an Internal Control system (ICS)



Has a system of joint marketing



GoO members shall be in geographic proximity.

A member shall register only for one GoO for a given product.




Art 36.1 Definition of a Group of Operator

The Art 36.1 Definition of a 'Group of Operator' is the key section with fundamental implications for groups. ICS managers are recommended to also read the original legal text, parallel to the simplified explanation given in this handbook.


Art 36 (1.) Each group of operators shall:

- (a) only be composed of members who are farmers** or operators that produce algae or aquaculture animals and who in addition may be engaged in processing, preparation or placing on the market of food or feed;
- (b) only be composed of members**
 - (i) of which the individual certification cost represents more than 2 % of each member's turnover or standard output of organic production **AND** whose annual turnover of organic production is not more than EUR 25 000 **or** whose standard output of organic production is not more than EUR 15 000 per year; **OR**
 - (ii) who have each holdings of maximum five hectares, 0,5 hectares, in the case of greenhouses, or 15 hectares, exclusively in the case of permanent grassland;
- (c) be established in a Member State or a third country;**
- (d) have legal personality;**
- (e) only be composed of members** whose production activities or possible additional activities referred to in point (a) take place **in geographical proximity to each other in the same Member State or in the same third country;**
- (f) set up a joint marketing system for the products produced by the group; and**
- (g) establish a system for internal controls** comprising a documented set of control activities and procedures in accordance with which an identified person or body is responsible for verifying compliance with this Regulation of each member of the group. *(+various subpoints in section g on ICS procedure)*
- (h) appoint an ICS manager and one or more ICS inspectors who may be a member of the group.** *(+ various details in section h on role of ICS manger & inspectors)*

Composition of a GoO



Group of Operators
is composed of farmers



Art 36.1 (a) defines that a Group of Operators shall only be composed of members who are farmers or operators that produce algae or aquaculture animals and who in addition may be engaged in processing, preparation or placing on the market of food or feed.



A 'member' is considered also an 'operator' in the regulation and as such needs to commit to compliance with the EU Regulation, i.e. be an organic or in-conversion farmer.

In combination with the rule that a GoO shall have 'legal personality', this clause has major implications for the legal & organisational set up of groups

See section 3 for details



The definition of a GoO's legal entity and the implications for certified groups have been intensely discussed by various experts and stakeholders since 2019, arguing for an interpretation that considers certified groups' organisational structures, their prior compliance with the EU Regulation as well as the spirit of the regulation.



With publication of the June 2023 'FAQ on Organic Rules' the EU Commission has published legal clarification on some key questions around the GoO definition. → *included in this handbook*

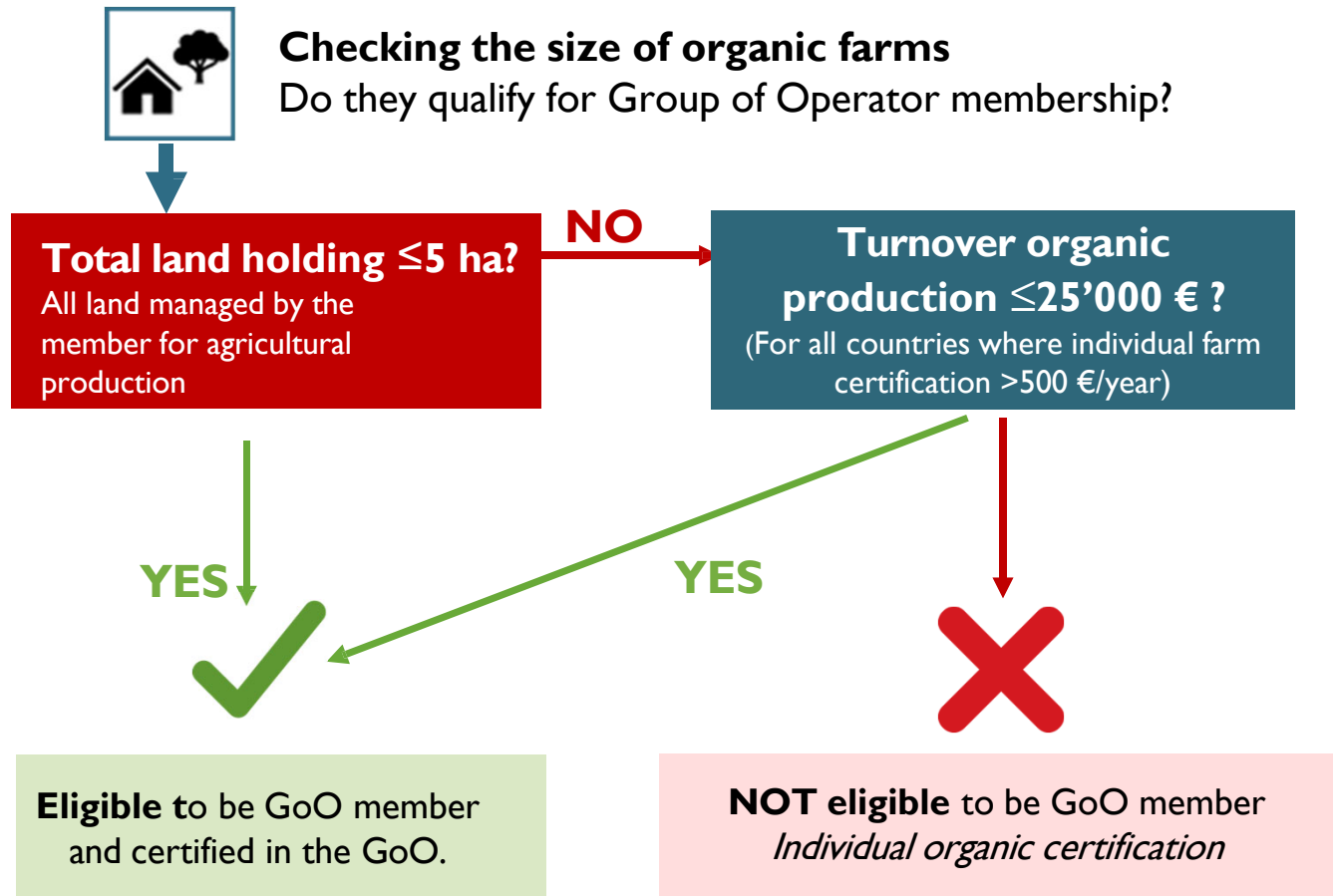
Maximum GoO-member farm size / organic turnover



GoO member is farmer with ≤ 5 ha total land OR $\leq 25'000$ € organic turnover*

* Simplified summary; valid for all countries where the cost of organic certification for an individual farm of that size would be more than 500 €/year, i.e. almost all countries worldwide.

§ Reg. 2018/848 Art. 36.1 b





Technical background: maximum farm size/turnover

Regulation Art 36.1.(b)

(The Group of Operators shall...) only be composed of members

(i) of which the individual certification cost represents more than 2 % of each member's turnover or standard output of organic production **and** whose annual turnover of organic production is not more than EUR 25 000 **or** whose standard output of organic production is not more than EUR 15 000 per year;

OR

(ii) who have each holdings of maximum five hectares, 0,5 hectares, in the case of greenhouses, or 15 hectares, exclusively in the case of permanent grassland;

Condition (i) to be GoO Member:

If the cost of an individual farm's annual certification in the country is >500€ (i.e. in almost all countries worldwide), the 25'000€ maximum turnover from organic production becomes the most relevant restriction for farms > 5ha.

Example: Farm with 20 ha total land, thereof 7 ha coffee. Typical Certification cost single medium farm in the country 1200€/yr; Turnover from organic coffee sales to the coop: 50'400€. → 2% rule would be met (1200€ is more than 2% of organic turnover= 1008€) → BUT Organic TURNOVER = coffee sales to the group > 25'000 € → Too big to be GoO member; this farm needs individual certification

'Standard output of organic production'. The 'standard output' (SO) is an EU-wide reference value calculated by EUROSTAT by region, product & reference period based on EU farm surveys. There are no defined "SO" values for third countries. In third countries, it is hence not useful to apply the SO instead of the easier to determine (higher) 25'000€ turnover threshold. The SO may be useful for GoOs in the EU.

GoO members must meet EITHER Condition (i) OR (ii) - not both!

→ a farm with up to 5ha total land can always be a GoO member. There is no need to check turnover.

Condition (ii) to be GoO Member: holding of farmer < 5ha

'Holding' = all land managed by the farmer for agricultural production. This includes all organic as well as non-organic land (with any type crops, pasture for livestock or fallow).

Maximum size of holding

Holding = all production units operated by the member for the purpose of producing live or unprocessed agricultural products, including products originating from aquaculture and beekeeping.



Does the 5 ha size refer only to the member's organic coffee plots?

- **No, the 5 ha holding limit refers to the farmers 'holding' = total land** operated by the member for agricultural production (for income generation) **i.e. organic as well as non-organic fields or fallow land for rotation.**
- **This includes agricultural production plots with other crops** than the organic export crop and any leased/rented plots cultivated by the member.
- Forest plots are not included, unless used for agricultural production e.g. in aquaculture.

The 'total land surface under the management of the member' is a compulsory element in the GoO members list. It must be registered by the ICS for each member. (Reg. 2021/279, Art 5)

Member's turnover from organic production

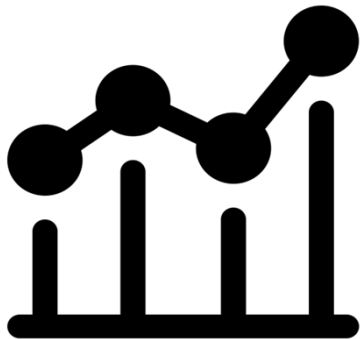
What is the member's 'turnover from organic production'?

= **The member's annual value of organic sales to the group**

- **Accumulated total sales** per accounting year in local currency
- **Based on the price as actually paid** to the member for the products delivered; after market price deductions by the coop
- **Price paid for the product before deductions** for inputs or services provided to the member
- **Subsidies do not count as turnover**



Question: maximum turnover from organic production



What about significant or sudden fluctuations in sales volumes, prices and exchange rates?

The ICS shall define rules and procedures to ensure member eligibility in their group; to be reviewed and approved by the Certification Body.

Additional considerations:

- *Intention of Art 36.1 (b) = continuity in GoO membership, not annual in / out.*
- *Annual average currency conversion to € is normal EU practice, e.g. EU's Exchange rate (InforEuro) converter's 12 months value*
- *Groups are advised to manage compliance with the rules carefully and apply a safety margin in their internal rules for membership.*

Question: Many of our members have > 5ha total agricultural land – can they not be member in a group of operators?

The majority of smallholder farms certified in groups is <5 ha total agricultural land.



However in many countries / commodities there are also organic group farmers with >5 ha total land, which are clearly ‘smallholders’ in the local context.



These farms of <5 ha, can still be member in a GoO if their organic turnover is <25'000 €/year!



In many typical smallholder commodities (coffee, cocoa, spices, nuts etc.) organic turnover of even “larger” members tends to be much below 25'000€ /year.

*E.g. organic cocoa farmer in Ecuador with 0.75 t/ha; price 2.6 €/kg
→ potential organic turnover of 1800 €/year per ha under cacao.
→ farm with 5 ha cacao/10ha total land : max. organic turnover 9000 €*



In only a few commodities / regions (e.g. fresh fruit in Latin America), farms tend to have >5 ha AND >25'000 € turnover
→ careful check of turnover needed for all farms > 5ha!



*Comment by FiBL: The “maximum potential organic turnover” (organic yield estimate * farmgate price in €) can be easily calculated in the farmers list for all farmers and used as proxy indicator whether any members can achieve an organic turnover anywhere close to the limit (if they would sell their entire harvest to the group) and closer check of last season’s sales value to the group is needed. Check required proof of turnover with your CB .*



Question: larger farm members in a cooperative



>5 ha total land

AND



'too big' to be GoO member

What about larger farmer members in our coop?

- If the farm is >5 ha AND sells >25'000 €/year to the group as organic, it cannot be GoO member and certified in the GoO.
- To sell as organic, the farm needs to be certified as an individual farm by a Certification Body.
- The cooperative could still buy and market the certified farm's organic products as certified operator (for preparation & export).
- The «too large» farms can NOT remain statutory members of a cooperative which wishes to be certified as GoO
 - *the cooperative forms a new legal (sub-)entity for just the small farmers as members, see section 1.3*
 - *OR the larger farm is excluded from statutory membership*
(Note: this is often not the best option, especially if the cooperative is also Fairtrade certified)

EU-COM FAQ: Non-eligible Members



EU Commission Answer (FAQ N° 10)

When members of a certified group of operators no longer comply with the requirements set out in Article 36(1)(a) and (b) of Regulation (EU) No 2018/848 can they remain a member of the group of operators?

No. Article 36(1) of Regulation 2018/848 provides that each group of operators “shall only be composed of members” fulfilling, among other requirements, the conditions set out in points (a) and (b).

Consequently, an operator who does not fulfil the requirements of Article 36(1), points (a) and/or (b) of Regulation 2018/848 **cannot be a member of the group of operators if that group is intended to be controlled and certified as a group of operators** within the meaning of Article 36 of Regulation (EU) No 2018/848.

*Art 36.1.(a) → be a farmer or
algue/aquaculture operator;
& comply with organic rules.*

*Art 36.1.(b) → under the farm size or
organic turnover limit*

*→ Cannot remain statutory (legal)
member in the legal group entity to be
certified as GoO*

EU Commission FAQ on organic rules, Version 13 Jun 2023

Dimension of a GoO: maximum group size



A GoO may have a maximum of 2'000 GoO-members

- Groups with >2'000 certified members will need to set up new smaller legal entities for EU certification.
- Each new smaller GoO needs a 'legal personality' for certification and be composed of only organic or in-conversion farmers.
- It is not acceptable that “sub-units with < 2000 farmer” of a cooperative share the legal personality of the cooperative. Each GoO entity must have its own legal personality, but it could be member or constitutionally linked to another entity.



Reg. 2021/279: Art. 4 & 10

Already certified producer groups have a transition period until 1/2025 to comply with this new size rule.

EU-COM FAQ: Cooperative with >2000 members



EU Commission Question & Answer (FAQ N° 9)

In an example of a cooperative that has more than 2000 members, can this cooperative have groups of operators as sub-units of the cooperative, which are certified as groups of operators but which remain under the cooperative or share the same legal personality as it?

No. On the one hand, in the context of this example, the sub-units mentioned are groups of operators for the purpose of organic certification in accordance with Article 36(1), point (d) of Regulation (EU) No 2018/848, which provides as follows: “Each group of operators shall (...) have legal personality”. **Therefore, the mentioned sub-units cannot share the legal personality with other sub-units and/or cooperatives.**

On the other hand, Regulation (EU) No 2018/848 **does not prevent a group of operators from participating in the membership of other types of farmers associations or arrangements such as a cooperative** subject to the respect of all applicable provisions. Finally, as set out in Article 4 of Regulation (EU) No 2021/279, the size of a group of operators cannot exceed 2000 members.

EU Commission FAQ on organic rules, Version 13 Jun 2023

Training group discussion – member farm sizes



Discussion: new farm size / turnover limits



Discuss the situation for your group, e.g.

- **Do we know our members' total holding / farm size, i.e. all agricultural land managed by the member?**
- **Do we have any members with >5 ha total land holding?**
- **If there are larger organic farms with >5 ha total land,**
 - Calculate for largest 3 farms the yield estimates * farmgate prices to estimate potential organic turnover; convert to €
→ potential organic turnover under 25'000 € ? → all GoO members ok!
 - If any producers above/near the limit: Estimate which % of farmers production typically sold to the group. Verification of last years sales value to be sure.
- Next steps or further analysis if the new rules pose any problems?

A Group of Operators has its own 'Legal Personality'

36.1.(d) The Group of Operators shall have legal personality.

EU Commission Answers : legal personality

(N° 13) «Legal personality is not defined by Reg. 2018/848, but refers to entities recognised by national law as having distinct identity, as well as legal rights and duties and are thus able to do things in law that a natural person can do (e.g. own property, enter into contracts etc.) according to the laws of that country.»

(N°9): (...) Regulation (EU) No 2018/848 does not prevent a group of operators from participating in the membership of other types of farmers associations or arrangements such as a cooperative subject to the respect of all applicable provisions. (...)



Reg. 2018/848 Art 36.1 (d).
EU Commission FAQ on organic rules V 13.06.2023



GoO shall be a legal entity recognised by national law as having rights and obligations.

Depending on national law, some legal forms may be recognised without registration.

A GoO legal entity may be member in another organisation or may have contractual and cooperative obligations towards another entity.

This is neither restricted nor required.

Questions on 'Legal Personality' of a GoO

Question



Answer by
IFOAM & FiBL

Which kind of legal personality is acceptable for a Group of Operators legal entity?

In principle a GoO can be any form of legal entity recognised by national law as having rights and obligations and a distinct identity. However, the GoO legal entity should be “composed of members who are farmers” (or aquaculture/algae operators).

Note: The GoO's legal form should permit to exclude members easily, e.g. if they are not longer organic or too big for GoO certification. It also needs to permit joint sales of product

A new GoO legal entity may have close contractual and cooperative relationships with another unit.

For example in case of a cooperative with non-organic members, the new GoO entity could be a legally recognised “Association of organic cooperative members”, constitutionally linked to the cooperative and marketing exclusively through the cooperative. Eligible small farmers could be members in both the cooperative and the new association.



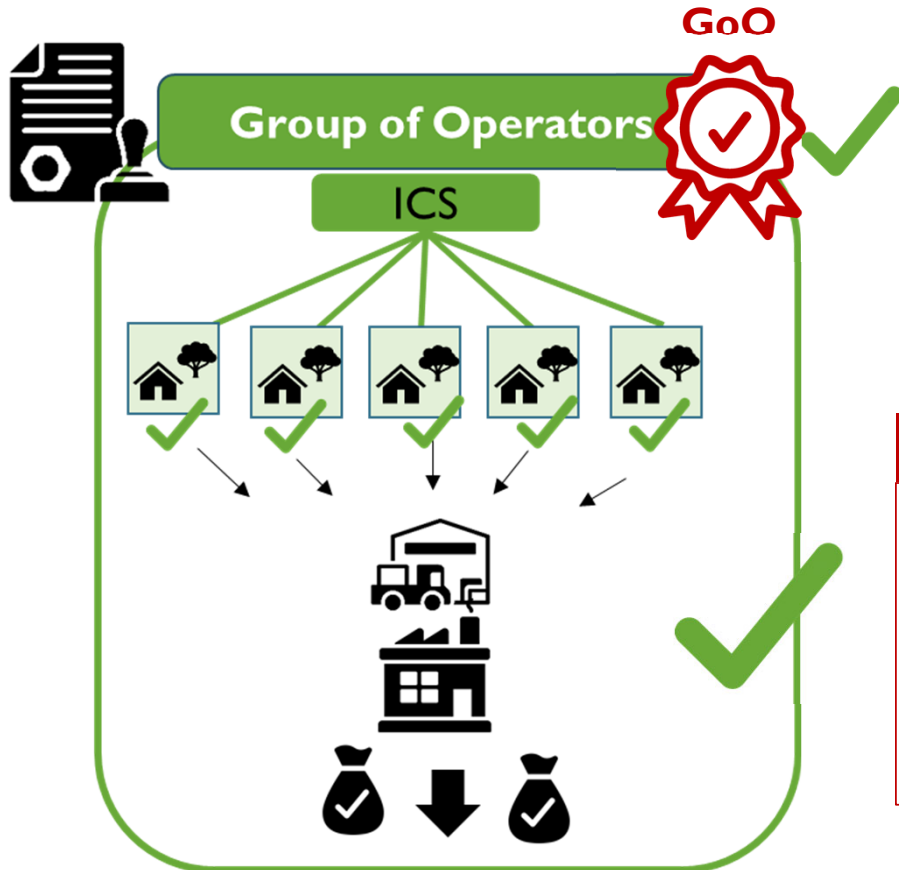
NEW FARMER GROUP
=GoO



Examples of farmer composed legal entities:

- A registered agricultural cooperative or other kind of farmers' association
- Any type of society or association (foundation, NGO, society, self-help group, community enterprise, community-based organisations, etc.) composed of farmers with the purpose of supporting organic farmers and market their products.
- Farmer companies, limited company with a registered business purpose of joint marketing of products from organic farmers who are shareholders of the company.

Preparation activities in a Group of Operators



All farmers organisations perform simple preparation activities after collecting products from members (such as sorting, grading, mixing, packaging), sometimes also “processing” (e.g. drying products).

Article 36.1, however, only states that members are farmers (...) “who in addition may be engaged in preparation and processing (...)”

EU Commission Answer (FAQ N° 11)

Can the group of operators perform preparation activities on the products that it receives from its members?

Yes. A group of operators certified as organic in the EU, or a group of operators certified as organic in the third countries can perform any activity, including ‘preparation’, under the group’s certification. (...)

EU-COM FAQ: Preparation by a Group of Operators



EU Commission Question & Answer (FAQ N° 11)

Can the group of operators perform preparation activities on the products that it receives from its members?

Yes. A group of operators certified as organic in the EU, or a group of operators certified as organic in the third countries that has been subject to the controls referred to in Article 45(1)(b)(i) of Regulation (EU) No 2018/848 **can perform any activity, including “preparation”, under the group’s certification.**

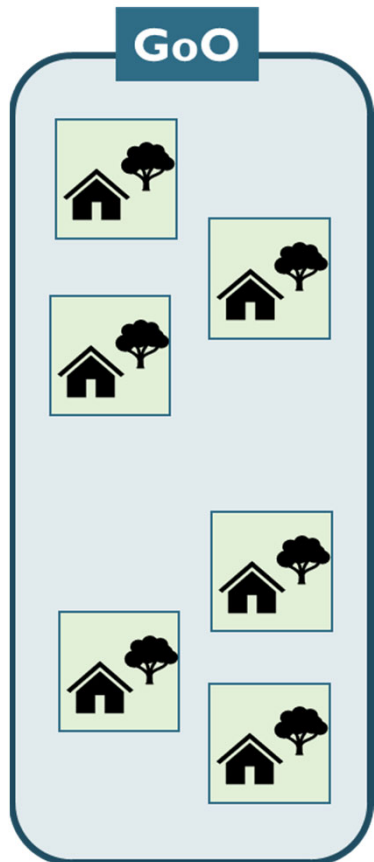
Those activities are:

- (i) the “production, preparation, distribution/placing on the market, storing, import and export” in the EU (Annex VI of Regulation (EU) No 2018/848);
- (ii) and (ii) “production, preparation, distribution, storing, import and export” in third countries (Annex I of Regulation (EU) No 2021/1378).

EU Commission FAQ on organic rules, Version 13 Jun 2023

Definition of ‘Preparation’ (2018/848, Art 3 (44)): **preparation** means the operations of preserving or processing of organic or in-conversion products, or any other operation that is carried out on an unprocessed product without altering the initial product, such as slaughtering, cutting, cleaning or milling, as well as packaging, labelling or alterations made to the labelling relating to organic production

Geographic proximity



Art 36.1.(e): “A GoO shall only be composed of members whose production activities (..) take place in geographical proximity to each other in the same Member State or in the same third country”.

Are there new detailed requirements on ‘geographic proximity’?

- **‘Geographic proximity’ has been required** for group certification since >20 years.
- **The new EU regulation does not define specific new criteria** for the evaluation of ‘geographic proximity’ by the CB, except being in the same country.
- **Geographic proximity is very important for a well working & efficient ICS for operational reasons** and the GoO will need to demonstrate to that their ICS is adequate if farmers are e.g. grouped in regional clusters.
Note: many certified projects may need to review their farmer clustering approach when identifying best suitable new legal farm group(s) set up to meet the GoO definition.

Question



Answer by
IFOAM & FiBL

FAQ: Can GoO members sell to different buyers?



Can farmers be members in more than one GoO?

2021/279 Art. 4: “A member of a group of operators shall register to only one GoO for a given product, also where the operator is engaged in different activities related to that product”.

- For the same product, e.g. coffee, a farmer **cannot** be member in different GoOs.
- In the example shown, a farmer could be member in one GoO for its organic mangos, and in another for its coffee.
 - BUT higher risk and needs to careful ICS management

Can GoO members sell to other traders?

Only products marketed by the GoO are certified organic.

But smallholder farmers as micro-entrepreneurs commonly sell also part of their crops/production to local traders.

- Such sales (*outside joint group system*) are NOT certified organic.
- The ICS should record and consider these other sales in its traceability system.

1.3 Implications for certified producer groups

FiBL



Photo: Paul van den Berge (FiBL)

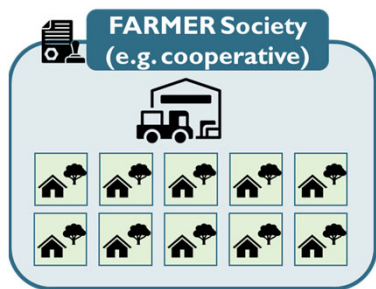
Important overall implications of Art 36.1 for groups



Art 36.1 defines a 'Group of Operators' as an entirely new 'concept'.

- Only a fraction of certified organic smallholder groups meets the new definition in its current legal and organisation set-up.
- The majority of smallholder group supply chains will need to set up suitable new legal entities as GoOs, or identify existing eligible entities to be certified as GoOs in the future.

A. Farmer cooperative societies and other registered farmer organisations



Farmers organisations are legally composed of farmers

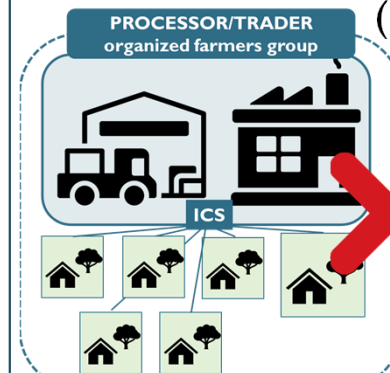


***BUT** many certified organisations do not meet the new EU GoO definition*



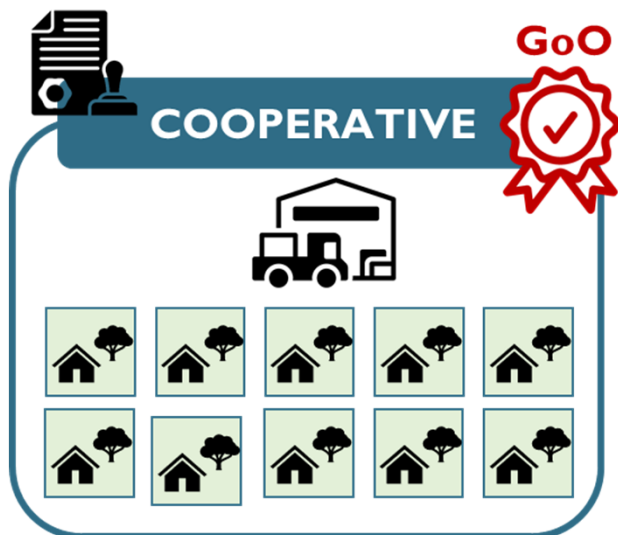
B. Processor/Exporter Organised Group

(Contract Production)



***NOT** in line with Art 36.1 as the certified legal entity is not composed of farmers.*

Implications for farmers' organisations



A registered farmers' organisation, e.g. a cooperative or farmers' association, is composed of farmers and can be certified as a "group of operators" if it has less than 2000 members...

BUT ONLY IF the farmer organisation is...



legally composed only of farmers committed to compliance with EU organic rules = organic and/or in-conversion statutory members (including" farmers in first 12 months of conversion).



who are all farmers under the new farm size/turnover limit.



and it is recognized under national law as having rights & duties (e.g. cooperative, society, association, farmer community enterprise, self-help group, etc.).

This means that any certified farmers' organisation which also has non-organic or 'too large' statutory members can not be certified as GoO in its current structure.

The farmers' organisation can be certified as 'operator' for preparation & export. It could establish a legal entity as GoO composed of eligible organic & conversion members (constitutionally linked to the cooperative which remains as it is) and sell their products.

Farmer society with non-organic statutory members

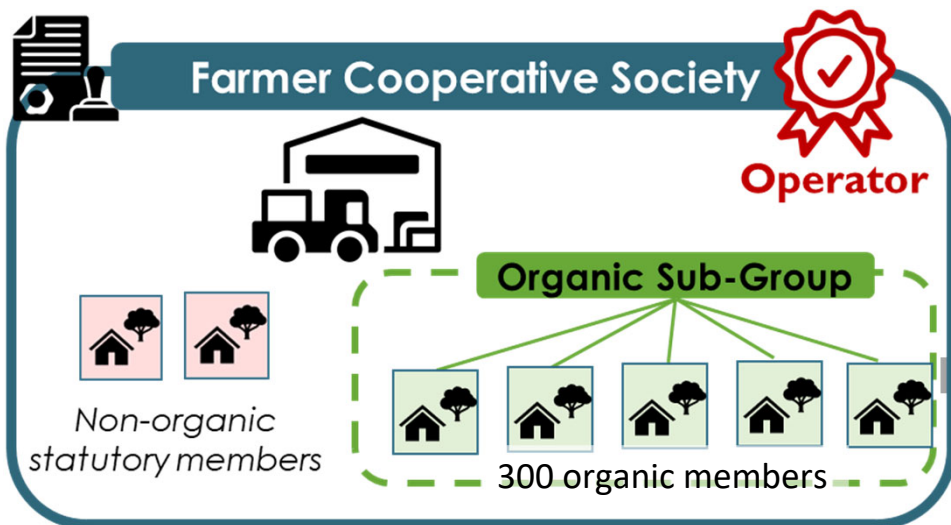
Question



Our cooperative has 300 organic and 100 non-organic statutory smallholder members. We have been certified organic EU & NOP since 10 years. Can we be certified as a GoO?

Answer by
IFOAM & FiBL

No. According to the EU interpretation, Art 36.1 implies that a cooperative with non-organic statutory members cannot be certified as GoO. All statutory members of a legal GoO entity must meet all eligibility criteria of Art 36.1. (farmers, comply with organic rules, under maximum farm size/turnover limit, in geographic proximity)



(FAQ Example Cooperative)



This cooperative can NOT be certified as GoO.

It can stay as it is and be certified as operator for preparation & export of organic products from certified GoO(s) or other operators.

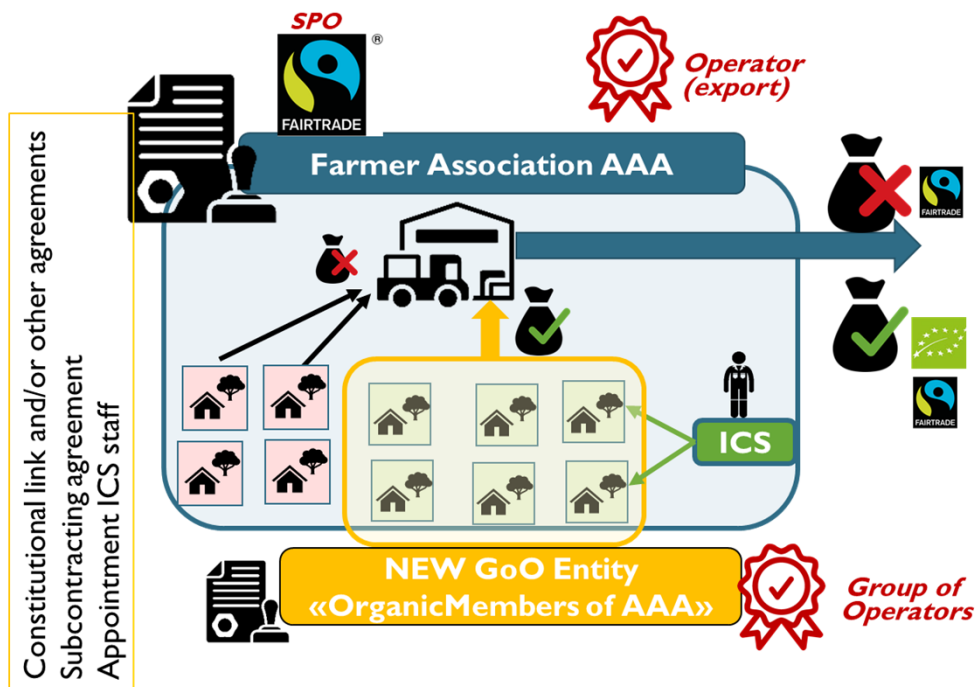
The (sub-)group of small organic farmers could be certified as GoO IF it had own «legal personality» (may be constitutionally & contractually linked to cooperative)



Group of Operators

Implications for organic farmers associations with non-organic or 'too large' members, or >2000 members

The association will need to adapt to continue group certification. However, it's not required and in most cases not advisable to split the association or expel non-eligible members. Splitting may also irrevocably jeopardise Fairtrade certification and complicate other certifications.



Each association should carefully evaluate different adaptation options, also in view of other certifications.

In most cases it seems advisable that the certified farmers association does not change its legal form & composition, and establishes one or several legal personality entities (of any form) as GoO for the eligible organic members. The new entity may be constitutionally and/or contractually linked to the association.

The small organic farmers are then members in both the association & new 'GoO entity'. The GoO entity may subcontract the joint marketing & traceability system and the ICS (via 'appointment' of ICS staff) to the cooperative

EU-COM FAQ: non-organic members in GoO



EU Commission Question & Answer (FAQ N° 8)

Can a group of operators certified as organic (Regulation (EU) No 2018/848) consist of members who are not organic farmers or organic operators that produce algae or aquaculture animals?

No. Group of operators can only be composed of members who are farmers or operators that produce algae or aquaculture animals and who in addition may be engaged in processing, preparation or placing on the market of food and feed. **Moreover, farmers or operators that do not comply with Regulation (EU) No 2018/848 cannot be members of a group of operators certified as organic.**

First, Article 36(1), point (a), defines the type of operators that can be members of a group of operators and the activities that members of a group of operators can perform: “Each group of operators shall: (a) only be composed of members who are farmers or operators that produce algae or aquaculture animals and who in addition may be engaged in processing, preparation or placing on the market of food or feed;”.

Second, the following provisions of Regulation (EU) No 2018/848 are also relevant:

- Article 3, point (13), which provides the following definition of “operator”: “Operator means the natural or legal person responsible for ensuring that this Regulation is complied with every stage of production, preparation and distribution that are under that person's control”; and
- Article 36(1), point (g), which provides as follows: “Each group of operators shall [...] establish a system for internal controls comprising a documented set of control activities and procedures in accordance with which an identified person or body is responsible for verifying compliance with this Regulation of each member of the group.

EU Commission FAQ on organic rules, Version 13 Jun 2023

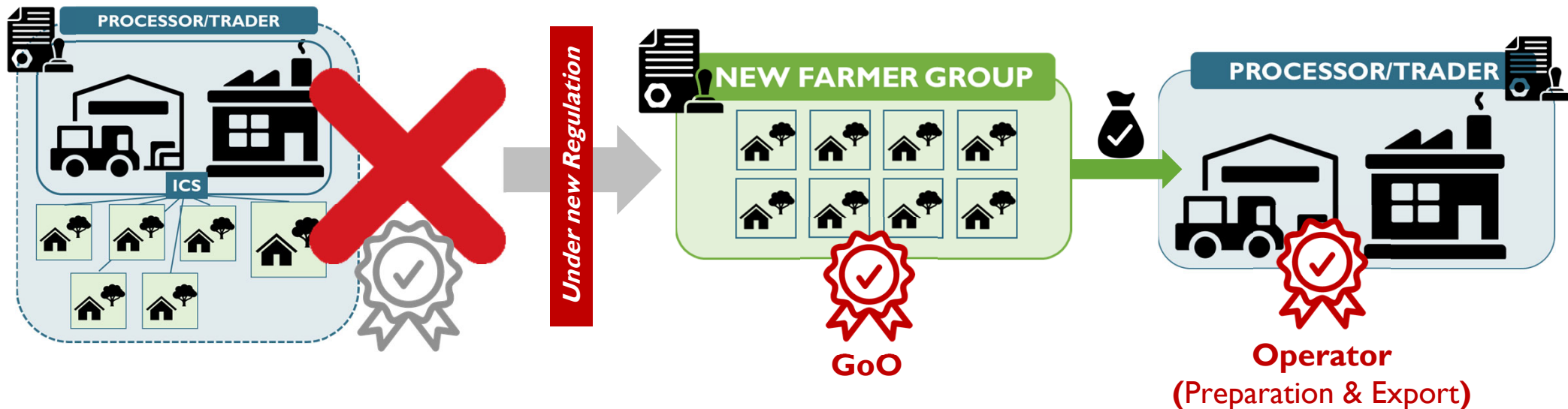
Implications for Processor/Exporter Organised Groups

A processing/export company with associated/contracted farmers is **NOT COMPOSED OF FARMERS** and hence cannot be certified as GoO.

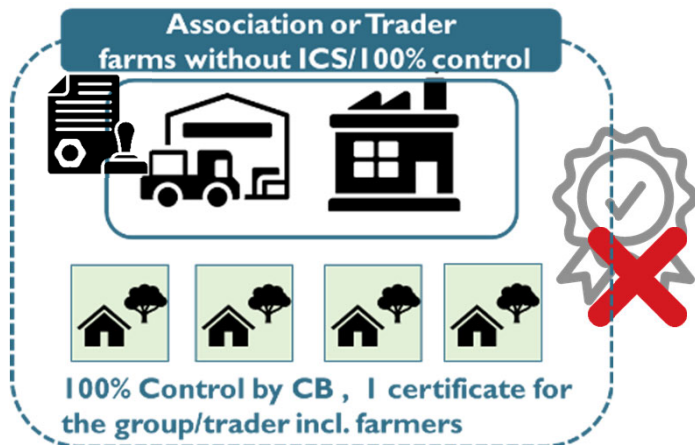


“Group of operator certification is for small farmers, not for companies”

One (or several) groups will be needed to be certified as **GoO**, with legal personality and composed of small organic/conversion farmers.



Implications for groups with 100 % external control



In some countries, e.g. In Turkey, Northern Africa, and South East Europe many organic supply chains are **traders or associations sourcing from small- medium size organic farmers with 100 % inspection by CB but included in one certificate, without ICS.**

'Group certification with 100 % external control' will be no longer possible under 2018/848.

EITHER individual certification of each farmer e.g. with contractual agreements to trader/cooperative

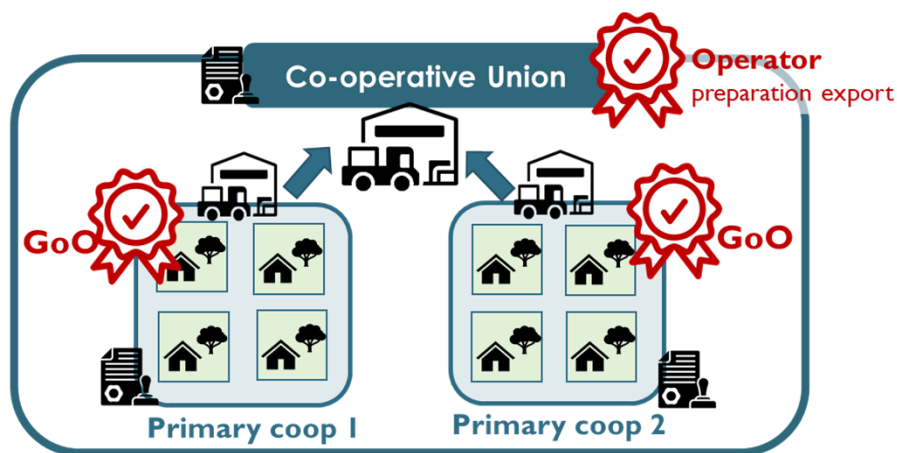
OR legal Group of Operator personalities are set up with ICS & externally controlled as GoO

Can an Union of cooperatives be certified as GoO?

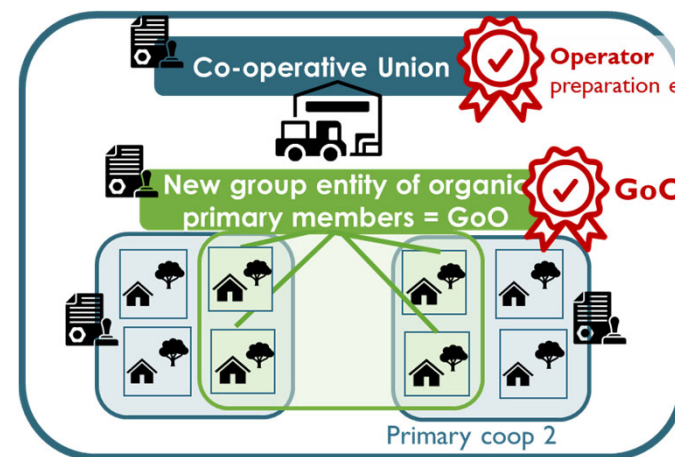
Most unions of cooperatives (2nd or 3rd degree farmers organisations) do not meet the new GoO definition in their current legal set up. They tend to have also non-organic farmers as primary society members and/or have >2000 members. But also unions are normally composed of cooperatives (not farmers) as members.

→ The Union could be certified as ‘operator’ marketing the products from GoO entities (e.g. organic primary cooperatives or a new registered entity composed of organic primary members) and support with ICS services etc

Adaption example 1: Certification of several fully organic primary cooperatives (<2000) as GoOs.



Adaption example 2: Union forms new registered legal personality for all eligible organic primary coop members



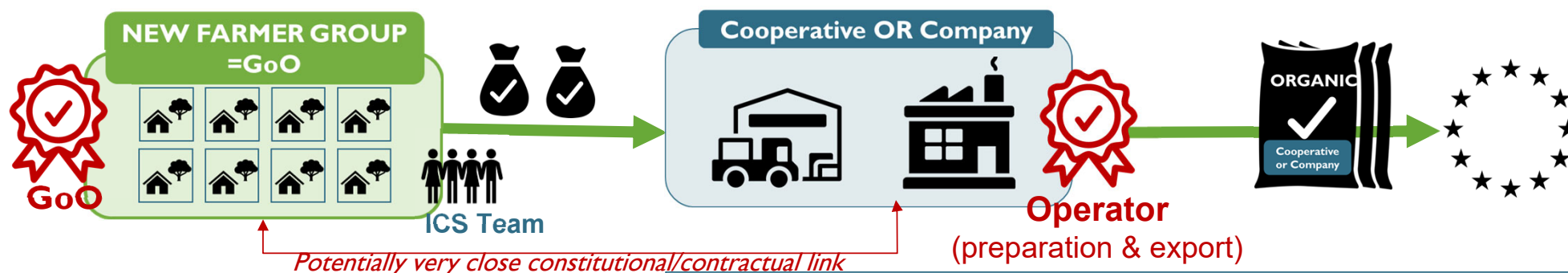
Expected future legal & organisational set-up



The majority of certified groups are expected to not meet the EU GoO definition and will need to change their organisational & legal set up to continue group certification for export to the EU.

- All 'contract production' groups
- All registered farmer organisations that do not meet the new GoO composition or size requirements

Future Set-up : new GoO legal entity/entities + operator certification for cooperative or Company



Most GoO(s) will be new legal entities, set up according to EU GoO definition.

- New legal personalities set up according to EU specifications, may have close contractual relations to organic coop/trader;
- Sometimes existing legal entities may be suitable.

The currently certified company or farmer organisation (e.g. cooperative)

- would be certified as 'operator' for the activities of preparation & export from the new GoO units or other certified operators.
- could provide ICS services to new GoO unit, if the new GoO 'appoints' the current ICS team as its ICS manager and ICS inspectors.
- could be 'sub-contracted' by the GoO for other activities

I.4 Overview of key changes in ICS and organic production rules

FiBL

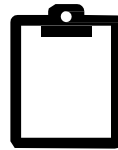


Photo: Paul van den Berge (FiBL)

More detailed ICS requirements in new regulation



Documented ICS Procedures



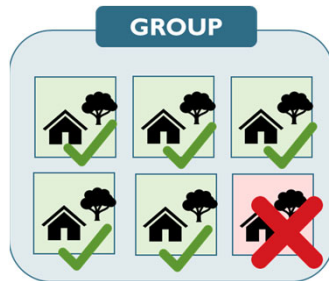
ICS Documents and Records



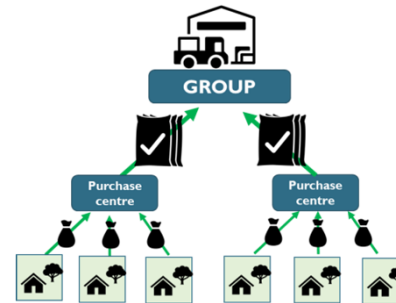
ICS Manager and ICS inspectors



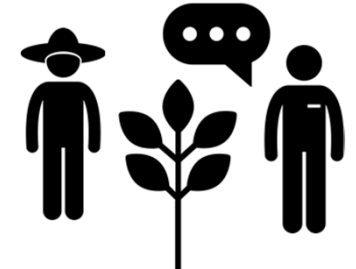
Internal inspection



Managing Non-Compliances



Traceability and product flow control and records



Farmers Training

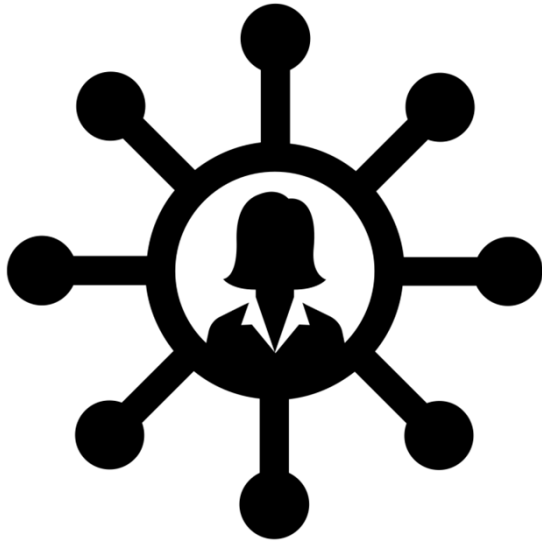


Reg 2018/848: Art. 36.1 g & h
Reg 2021/279: Art 5&6



→ See details in Part 3

The key role of the 'ICS Manager' in the new regulation



ICS manager role is a senior position in the organisation with authority and management capacity as well as technical skills to understand the regulation and manage compliance.

The 'ICS manager' has a **KEY** role in the GoO

- **Verify eligibility of GoO members, approve new GoO members** or new production units or activities of members.
- **Develop ICS procedures, documents and records.**
- **Assign tasks to ICS inspectors; schedule internal inspection** and ensure adequate implementation.
- **Decide on measures in case of non-compliances.**
- **Be liaison to the CB; decide on notifications to the CB.**
- **Decide on subcontracting activities and sign agreements.**
- **Train ICS inspectors and annually assess** their competencies.

Key changes in organic plant production for GoO members

The rules for organic plant production have not changed materially from Reg. (EU) 834/2007.

However, since even small producers in Third Countries will need to comply with all EU rules (no longer in an 'equivalent' way), most groups will experience the rules as stricter.



Overview of key changes:

- Control of members' entire holding with organic, in-conversion and non-organic 'production units' and activities
- Stricter rules for use of non-organic planting materials or retroactive recognition of conversion
- Clearer rules for soil fertility management (e.g. compulsory rotation including legumes) and pest and weed management
- New list of authorised substances with new additional rules and restrictions, especially for plant protection
- Strong focus on (documented) precautionary measures to prevent contamination and co-mingling of organic products



See Part 2: production rules

Key changes for traceability and organic handling

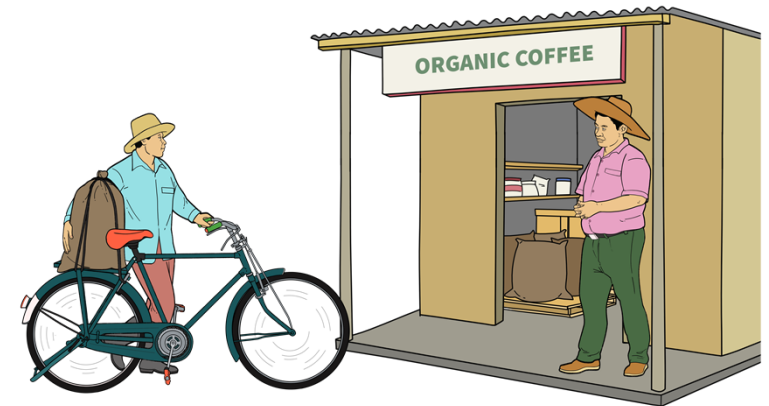


Avoiding contamination and co-mingling of organic products

- Precautionary measures to ensure separation of organic harvest, post-harvest and storage activities and prevent contamination – to be controlled by ICS!
- New list of authorised cleaning and disinfection substances in Reg. 2021/1165 (from 2024). This will also apply to on-farm processing by members!

Full traceability expected from member to final sales as a group;

- Focus on detailed product flow verification and traceability records.
- Crosscheck farmers' yield estimates during purchase.
- ICS needs to inspect purchase centres.



See Part 2 for details

1.5 Key changes in external certification

FiBL



Photo: Paul van den Berge (FiBL)

New re-inspections and sampling rules for groups!

The certifier will need to re-inspect at least 5 % of group members each year (not less than 10)

- New rule will increase control rate for all normal risk groups >400 members, strongest effect for very large groups.

At least 2 % of members are 'subject to sampling' by the CB

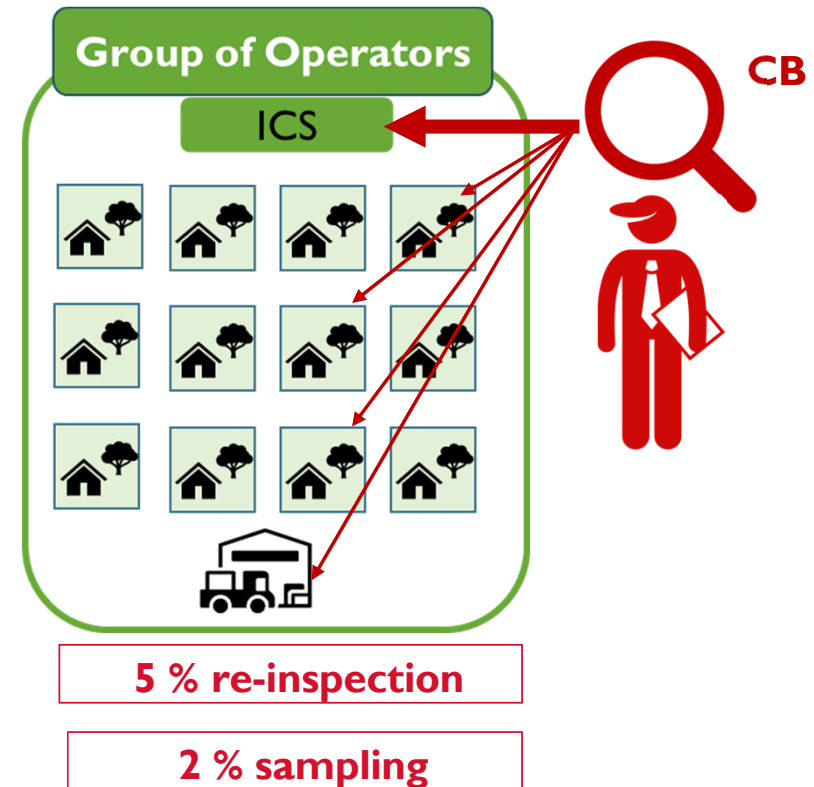
- Implementation to be defined in CB's sampling policies to be approved by the EU
- Likely to include a risk-based mix of individual and composite samples.

Control of purchase centres

- GoO purchase centres that handle also non-organic products, need to be inspected each year (2021/1698 Art 9.9)



Reg. 2021/279: Art. 7. Reg. 2018/848: Art. 35
Reg. 2021/1698 Control in Third Countries
Reg. 2021/1378 Certificate in Third Countries



General changes in control and certifications for GoO



Physical inspection of the **GoO** at least once a year

- **plus additional inspections without prior notice** (10 % of Operators and GoOs certified by the CB)
- **EU will define list of high-risk countries/ products → for such products (2021/1698, Art 8): 2 physical inspections per year** and higher sampling requirements.

The new **EU GoO (and operator) certificates**

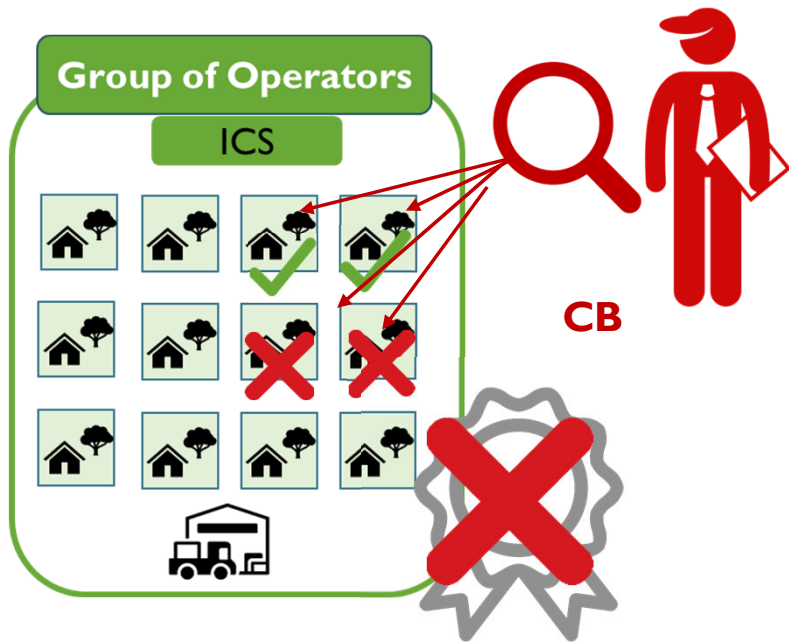
- Defined format and content (Reg. 2021/1378 Certificate for Third Countries).
- Issued via TRACES data base.
- The GoO certificate contains the list of members.

Certificates of inspection (COI) for each consignment to EU → see Reg. 2021/1698 Art 16



Reg. 2021/1698: Control in Third Countries
Reg. 2021/1378 Certificate in Third Countries

Withdrawal of the GoO certificate in case of ICS deficiencies



Art 36.2: Control bodies shall withdraw the certificate for the whole group where deficiencies in the set-up or functioning of the ICS affect the integrity of organic and in-conversion products - in particular, failures to detect or address non-compliance by individual members of the GoO.

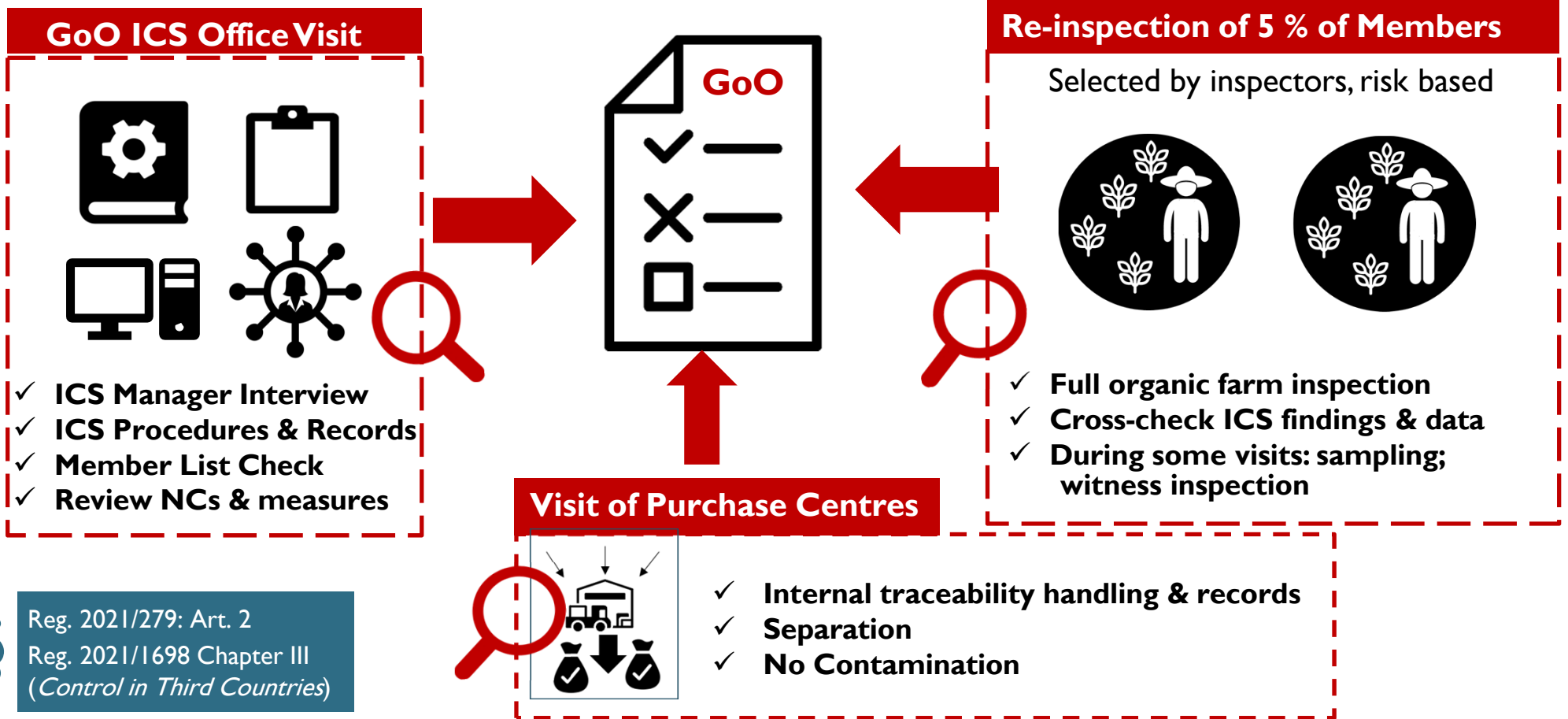
New regulation includes a long list of 'ICS deficiencies'. e.g.

- Not carrying out annual physical internal inspections of 100 % of members
- Serious deviations between external and internal inspection findings
- Serious deficiencies in imposing appropriate measures in case of NCs
- Processing/selling products from suspended or withdrawn members;
- Adding new members to the list without following due procedures,
- Failing to indicate suspended/withdrawn members in lists
- Inadequate number or competency of internal inspectors



Reg 2018/848 Art 36.2

The external inspection of a Group of Operators



Reg. 2021/279: Art. 2
 Reg. 2021/1698 Chapter III
 (Control in Third Countries)

EU group certification will differ from all others!



New NOP rules for group certification published

- ✓ → Company organised contract production allowed, no maximum group size, no maximum members size
- ✓ **Certification of certified groups possible in their current legal structure!**
- ✓ External Control : $1.4 \times \text{Square root (members)}$ or 2 % - whichever is higher

Final Rule: <https://www.regulations.gov/document/AMS-NOP-17-0065-0001>

→ Section 16 "Certification requirements for grower group operations"

- External Control Rate = square root
- No maximum number of members!



Splitting the group to align to new GoO rules risks to jeopardise Fairtrade certification. Recommended to keep current legal group entity as it is.