



IFOAM Guidance & Explanation of Group Certification Requirements

according to the New EU Organic Regulation 2018/848.

Final version July 2023 by Florentine Meinshausen (FiBL). Endorsed by IFOAM-Organics International, IFOAM-Organics Europe and the European Organic Certifier Council (EOCC).

Webinar 13 Jul 2023

Moderation: Vlad Zhmailo and Te-Chun Chen (IFOAM Organics International)

Presenter: Florentine Meinshausen (FiBL)

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Agenda of the Webinar

15.00: **WELCOME**

15.10: **IFOAM Guidance Group Certification Requirements acc. to new EU Regulation**

17.00: **QUESTIONS AND ANSWERS**

**This webinar is being
recorded**

**use
Q&A**

**Chat function
Is OFF**



A PDF of the webinar will be shared per Email.
Note: The PDF version includes some additional expert slides as background reading.

1. Introduction to the new EU Regulation & key changes
2. Definition of a “Group of Operators”
3. Implications for certified producer groups
4. Overview ICS requirements
5. Overview organic production rules for groups of operators
6. Overview external control of groups of operators

Disclaimer: *The content represents IFOAM's and FiBL current understanding after detailed analysis. It is a simplified summary of the regulatory requirements with some added guidance to explain the new rules to certified groups. As the regulation is complex and not yet applied in Third countries, there may still be some inaccuracies. Operators and inspectors are advised to refer the respective regulatory texts for clarity. Interpretation of regulatory requirements will evolve in the coming years of application.*

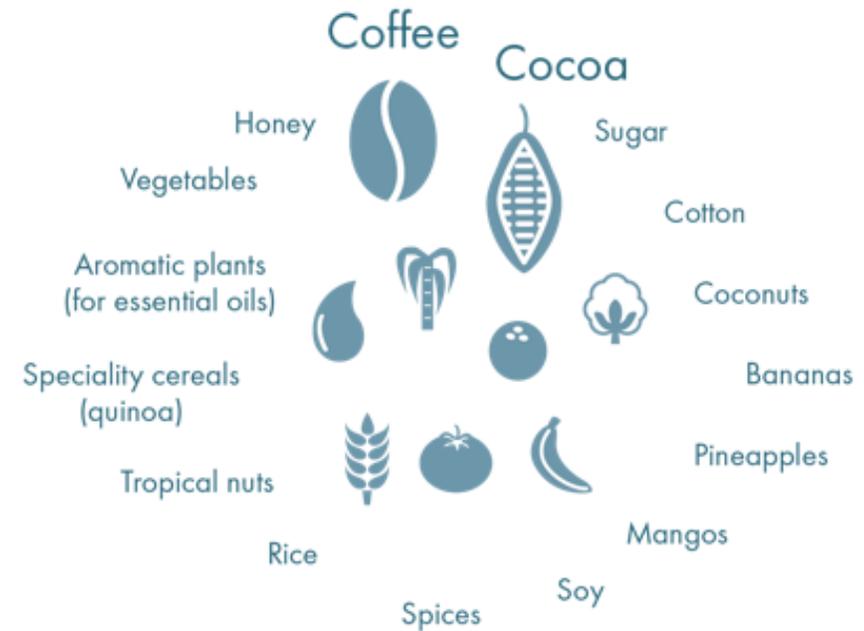
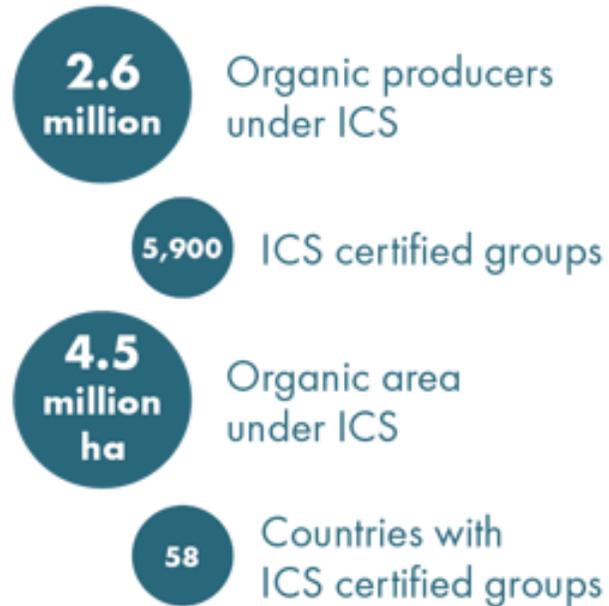
This is not a certification standard! *Please note that organic certification is based on recognized CB's interpretation of the regulatory texts and official EU guidance only and there may be differences in interpretation or application of the rules.*

1. Introduction to the new EU Organic Regulation N° 2018/848 and Key Changes



Changes in Group Certification Rules Matter!

Estimated global organic group certification

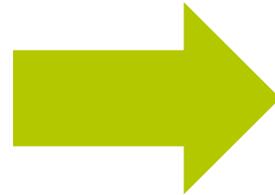


Source: FiBL ICS Study 2019

Smallholder Group Certification with Internal Control System (ICS) represents 80% of organic farmers worldwide.

The New EU Organic Regulation

The new organic regulation (EU) 2018/848 & its > 40 secondary acts



- Aimed to strengthen the organic integrity of production, especially for imported products
- Redefines rules for group certification.

Application of the new Regulation will have significant consequences for almost all certified organic groups world-wide.



Organic Regulation (EU) 2018/848

Use the „consolidated version“ (at present: Feb 2023)



Particularly important
Secondary Acts for Groups

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

Regulation (EU) 2021/279 „Control “ (Jan 2021,)
Group composition, ICS documentation, control and sampling (Art 4-7)

Regulation (EU) 2021/771 “official control of groups” (Jan 2021, published May 21)
Check of documentary accounts & official Controls of groups of operators;

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

Regulation 2021/2119 Records and declarations

EU Commission: Frequently asked Questions on Organic Rules (V. 13.06.2023);

There are many secondary acts that apply in addition to the consolidated version. The most ones for groups in Third Countries are referenced in this guidance. EU regulations can be found in many languages by internet search of the regulation number

Is the New EU Regulation already applicable?

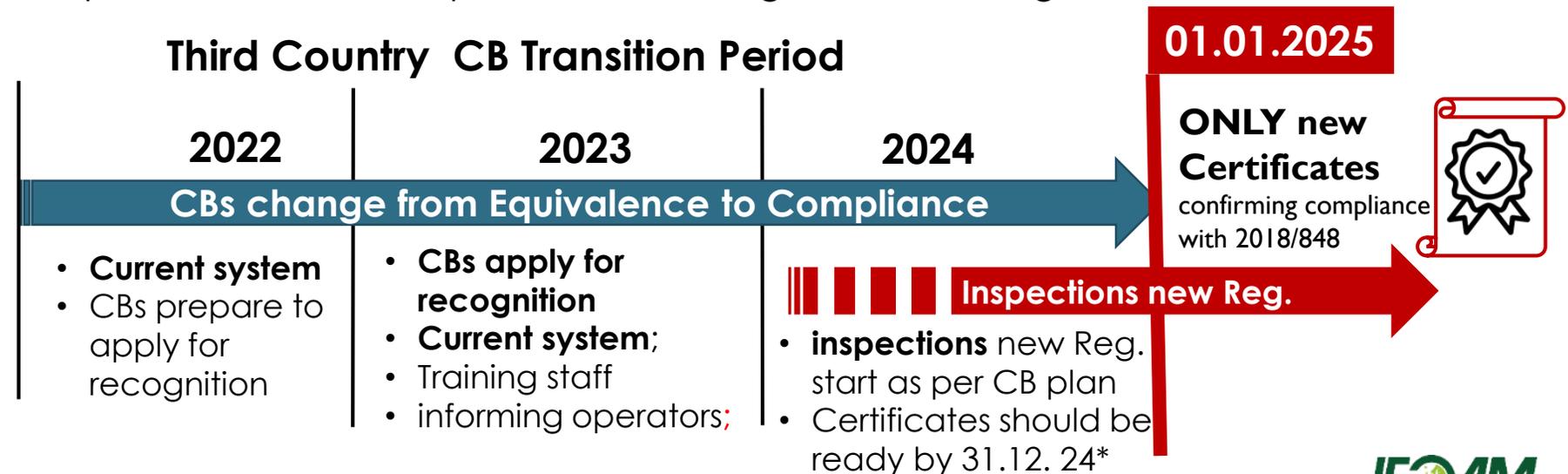
Yes, Regulation is applicable for operators and groups of operators in the EU since:



January 2022

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

- CBs have to apply for recognition under the new rules. The first list of recognized CB is expected from mid till end of 2024.
- Operators should contact their CB to learn about the detailed program and time frame for the switching to the new regulation.
- New certificates can be issued once the CB is listed for compliance and the operator has been inspected according to the new regime.



Key Change 1: “Compliance” with EU rules



Compliance

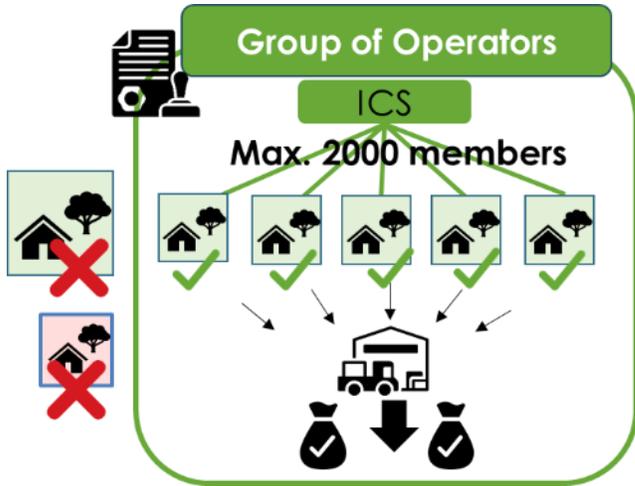
Organic Import system changes from «equivalence» to «Compliance»

- In most Third Countries, groups and operators are certified according to their certifiers' «equivalent organic standards», adapted to local conditions
- With the new regulation, operators in «Third Countries» will need to **comply** with the same (very detailed ,prescriptive & complex) rules as EU operators
- Countries with own organic legislation recognized as «equivalent» (e.g. Tunisia, India) need to re-negotiate a trade agreement with the EU. If not, operators have to be certified under the “compliance” system.

Clearer rules – more level playing fields

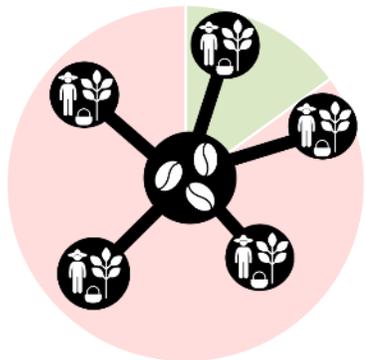
No flexibility to adapt to local conditions and realities

Key Change 2: Definition of a Group of Operators



The new regulation defines the new concept of a „Group of Operators“.

- ✓ Legal entity composed only of organic or in-conversion farmers
- ✓ all under the new farm size/organic turnover limit and
- ✓ Up to a maximum of 2000 members



Only 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 and farmers organisations with non-organic or larger statutory members.

Why is this explanation of Art 36.1 different than before?



The definition of a group of operator and resulting implications for certified groups have been intensely analyzed and debated within the organic sector and with the EU since 2019.



With publication of the June 2023 FAQ document, the EU commission issued legal clarification around the definition of GoOs, which now forms the basis for interpreting the regulation. IFOAM updated this final version of the guidance based on the Commission's official interpretation.

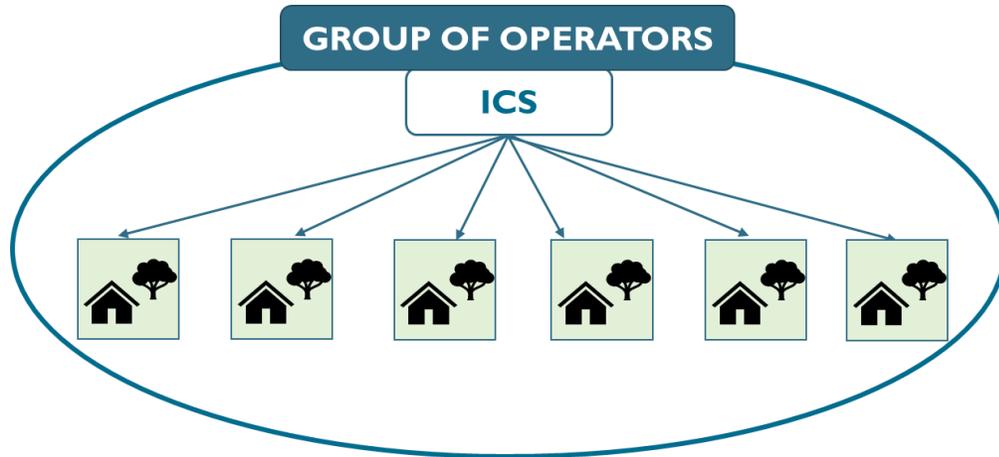
IFOAM Position

IFOAM as an organization still disagrees with the application of a specific clause of the EU Regulation to numerous certified groups in third countries solely based on a strict word-by-word legal reading. IFOAM believes that this approach fails to consider the existing organizational structures of these groups, their prior compliance with the Regulation and the negative implications of the expected adaptations for compliance.

IFOAM's disagreement highlights our belief that the interpretation and application of the regulation should involve a broader perspective, taking into account factors beyond a literal reading of the text. We argue for a more comprehensive assessment and a purposive approach of reading legal texts that considers the spirit of the regulation and the intention of the policymakers when they adopted the law.



Overview of Key Changes: ICS & Production Rules



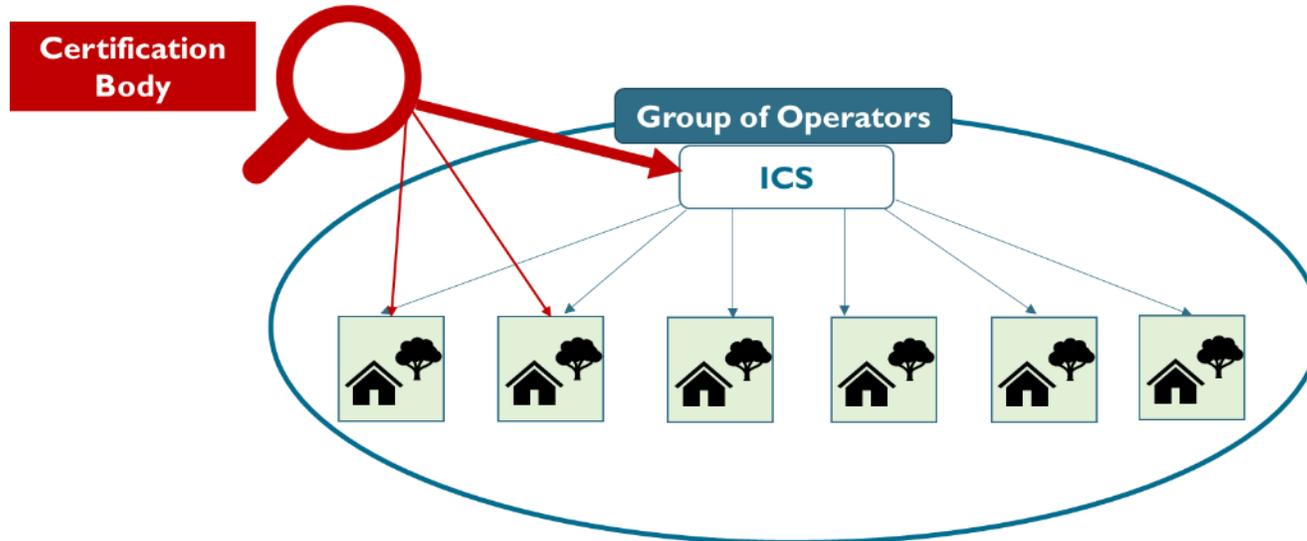
NEW ICS RULES

- **Stronger & clearer**, in line with established best practice; but many details may need to be aligned
- **High expectations on quality** of ICS;
- **The ICS manager has a key role**, requiring a position of internal authority

UPDATED ORGANIC PRODUCTION RULES

- **Main change : all detailed EU production rules will need to be fully complied with** (no longer in an equivalent way)
- Some rules are stricter (e.g. *crop rotation; retroactive approval, planting materials*)
- New restrictions for plant protection substances in Third Countries

Overview of Key Changes: External Control of Groups



- Minimum 5% of members of each GoO to be re-inspected annually
- Minimum 2% of members of each GoO shall be subject to sampling annually
- Inspection of ICS, GoO requirements and purchase centres

Overall stricter control expected, as CBs will need to control “compliance” with the detailed new EU requirements of the Regulation instead of the current system of “equivalence”.

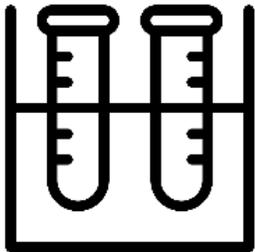
Key Changes for All Operators in Third Countries



Preventive and precautionary measures for all types of operators to avoid contamination & commingling of organic products (2018/848: Art. 9.6, Art 28)



Focus on product traceability & mass balance checks
→ high expectations for records & demonstrated ability to trace lots. (2021/2119 Art. 2 & 2021/1698 Art. 11)

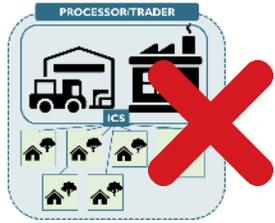


Focus on sampling by CBs & measures in case of detection of any unauthorized substances by operations & CBs. Blocking products while investigating in case of suspected or confirmed presence of non-authorized substances. Official investigation to determine the source & cause. (Reg. 2018/848: Art 28 & 29 & Reg. 2021/279).
→ see IFOAM Position paper [“Management of Pesticide Residues in Organic Products”](#) (March 2023)

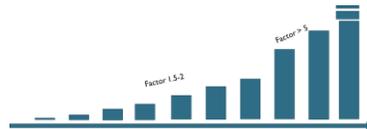
The EU will define “High Risk products” in Third Countries which will be subject to control twice a year and more intense sampling of operators and consignments each year.

Until 2018/848 applies fully, “Additional measures” are defined annually for certain third countries and products.

Expected Challenges of the New Regulation



The re-organisation of well established organic smallholder supply chains into separate new legal 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



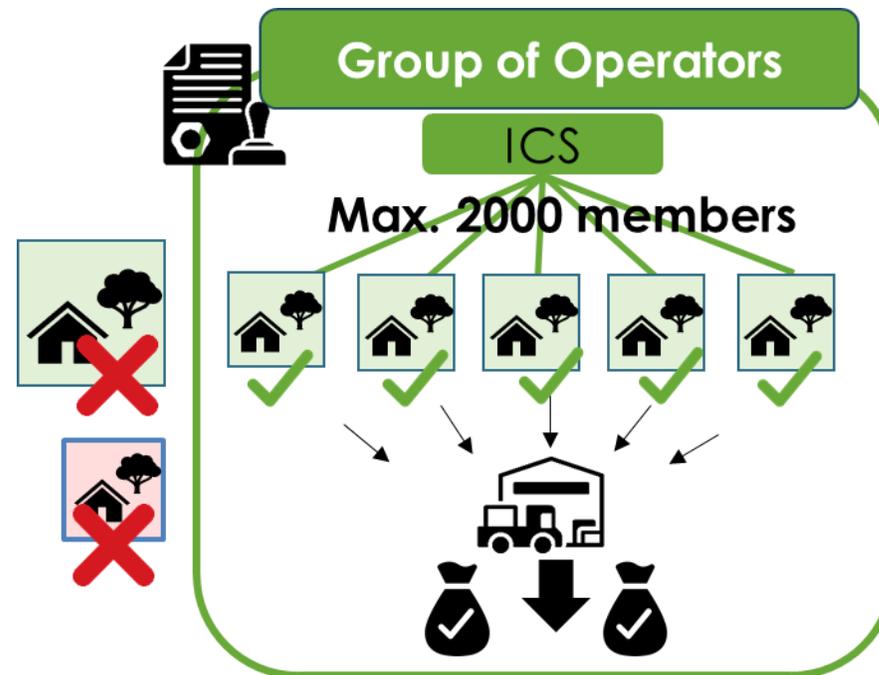
«Compliance»: Understanding and complying with detailed & complex legal **European rules** will be very challenging for groups worldwide.

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



Clearer ICS rules. Harmonised external control requirements

2. Definition of a Group of Operators



Definition of a “Group of Operators”

A Group of Operator (GoO)



is composed of members

- ✓ Who are farmers committed to organic production
- ✓ under the maximum size/turnover limit
(< 5 ha total land, OR $< 25'000\text{€}$ organic turnover).



Max. 2000 members per GoO



Has „legal personality“



Operates an Internal Control System (ICS)

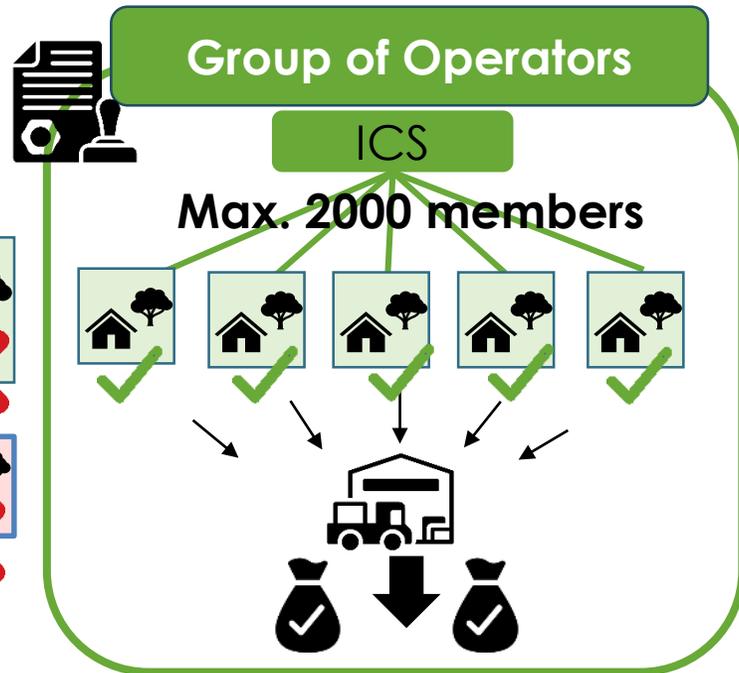


Has a system of joint marketing



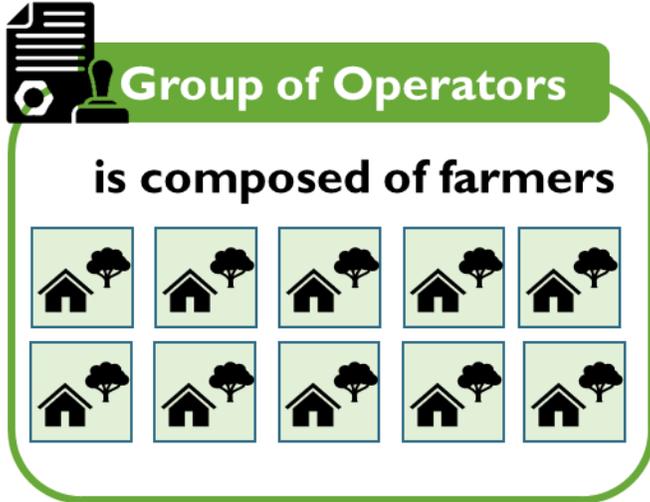
Members shall be in geographic proximity.

A member shall register only for 1 GoO for a given product.



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

A GoO is composed of farmers



Art 36.1 (a) defines that a 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



As, a «member» is also an «operator», a member needs to committ to compliance with the EU Regulation, i.e. be an organic or in-conversion farmer (from begin of conversion onwards).

In combination with the requirement that a GoO shall have “legal personality”, it is this clause that has legal and organizational implications for many currently certified groups. → see next

Maximum GoO-Member Farm Size / Turnover

The requirements for members of Art 36.1 (b) can be simplified for most Third countries to the following simple rules

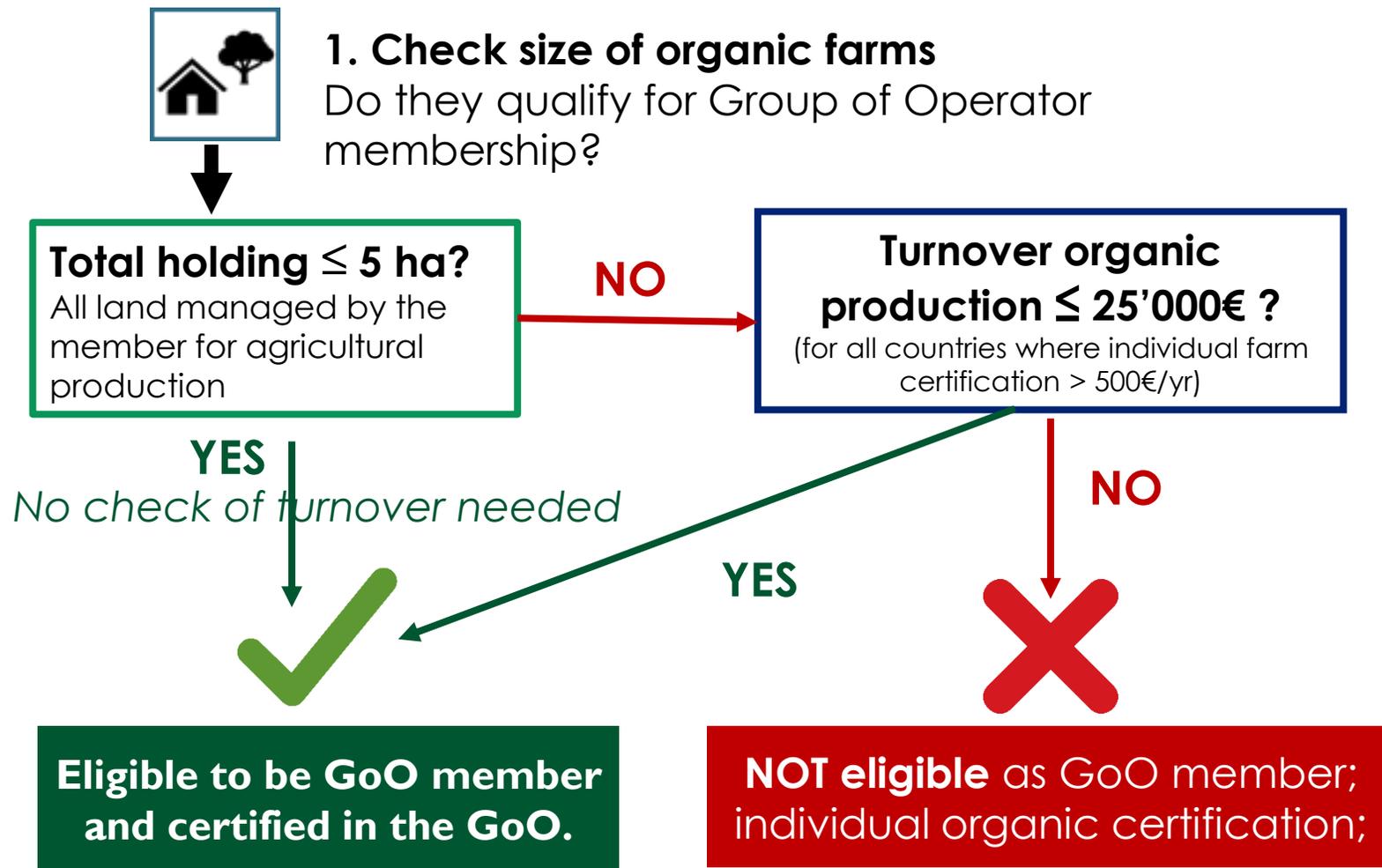


GoO Member is farmer
with $\leq 5\text{ha}$ total land
OR $\leq 25'000\text{€}$ organic turnover*

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



Reg. 2018/848 Art. 36.1 (b)

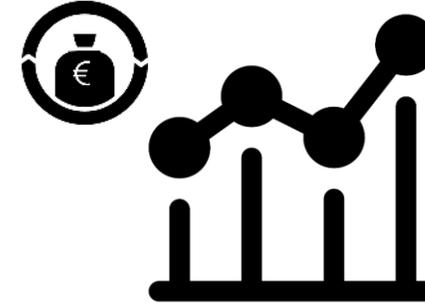


Maximum Turnover from Organic Production ?

Questions
to IFOAM

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IFOAM answer



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 (past year).
- Based on the price for products as actually paid to the member
- Subsidies do not count as turnover.

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

ICS shall define rules & procedures to ensure member eligibility; to be reviewed & approved by CB .

IFOAM's additional advise:

- Intention = 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 *12 months value*
- Groups are advised to manage compliance with the turnover rules carefully and apply a safety margin in their membership rules.

Maximum Size of Holding and “Larger Farms” ?

What is a members “Holding”? Does it mean only the organic land?

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

- i.e. organic fields as well as non-organic or fallow land for rotation
- Forest plots are not included, unless used for producing e.g. organic aquaculture products.

Questions
to IFOAM

???

IFOAM answer



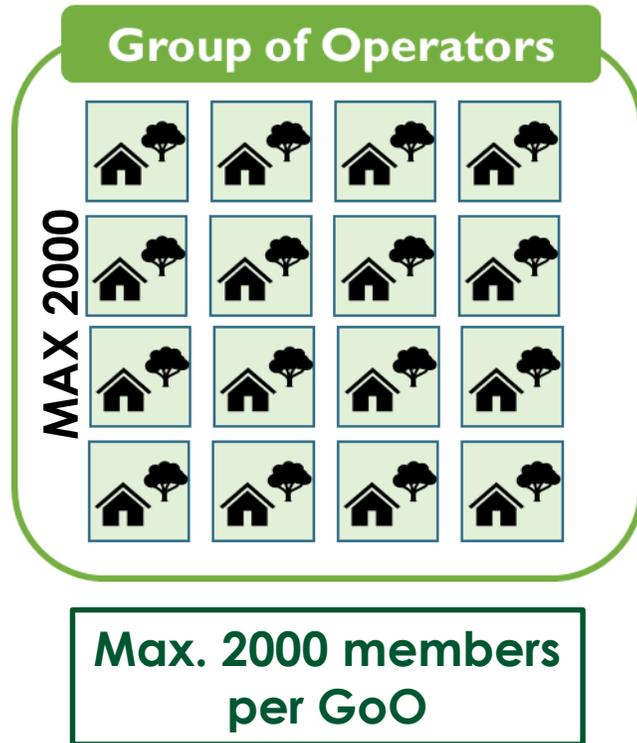
What about larger farms in our cooperative?

If the farm is > 5ha AND its organic turnover is > 25'000€/yr it can't be GoO member.

- To sell as organic, the farms needs to be certified as an organic farm by a CB
- The farmer can **NOT** remain statutory member of the GoO group entity.
 - *either the larger farm is excluded from statutory membership.*
 - *OR the cooperative forms a new legal GoO entity for just the “small” farmers, see next section*

The “total land surface under the management of the member“ = compulsory GoO member list element . It must be registered by the ICS & kept up to date for each member (Reg. 2021/279, Art 5 (a) (iv))

Maximum Size of a Group of Operators



A GoO may have maximum 2000 members

➔ Groups with > 2000 certified members will need to set up new smaller legal entities for EU certification as GoO.

- Each new smaller GoO unit will need **"legal personality"** and be composed of only organic or in-conversion farmers
- It is not acceptable that subunits (< 2000 members) of a cooperative share the legal personality of the cooperative. Each GoO must have own legal personality.



Reg. 2021/279: Art. 4&10

Certified groups have a Transition Period until 31.12.2024 to comply with this maximum group size rule.

GoO shall have its own “Legal Personality”

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



EU Commission FAQ N°13 & 9

FAQ (N°13): «Legal personality» is not defined by Reg. 2018/848, but refers to entities recognized 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.

FAQ (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. (...)

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

Depending on national law, some legal forms may be recognized 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.



Reg. 2018/848 Art 36.1 (d)
EU Commission FAQ V. June 2023

Questions on «Legal Personality» of a GoO

Questions
to IFOAM

???

IFOAM answer

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

In principle a GoO can be any form of legal personality recognized by national law as having rights and obligations and a distinct identity. However, the GoO legal entity should also be **“composed only 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.

A new GoO legal entity may have contractual and cooperative relationships with another legal entity. *For example in case of a cooperative with non-organic members, the new GoO entity could be a legally recognized “Association of organic cooperative members”, marketing exclusively through the cooperative.*



NEW FARMER GROUP
=GoO



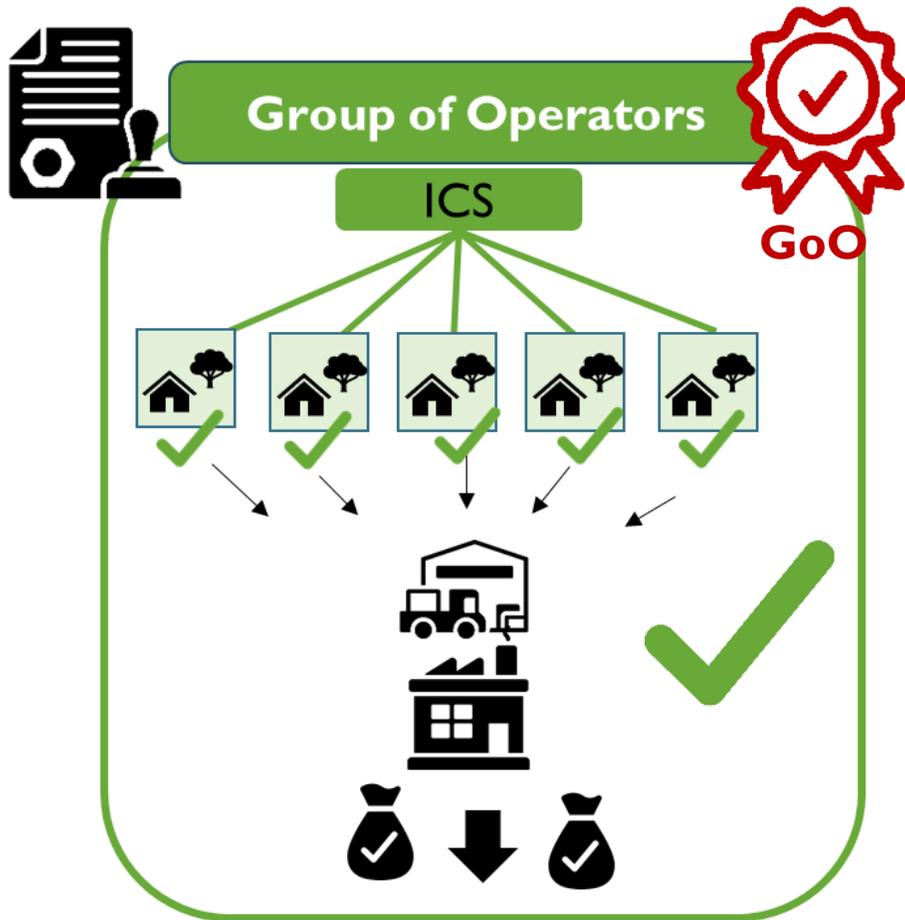
Examples of farmer composed legal entities:

- 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 organizations, 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.

Groups may need legal advise to find suitable legal forms
and contractual agreements as per national law

13 Jul 2023 Webinar IFOAM Guidance Group Certification New EU Regulation

Preparation activities in a Group of Operators



All farmers organizations perform at least some preparation activities after collecting the product from members, e.g. sorting, grading, mixing, packaging, sometimes also “processing” (e.g. drying products) as part of their joint marketing system.

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

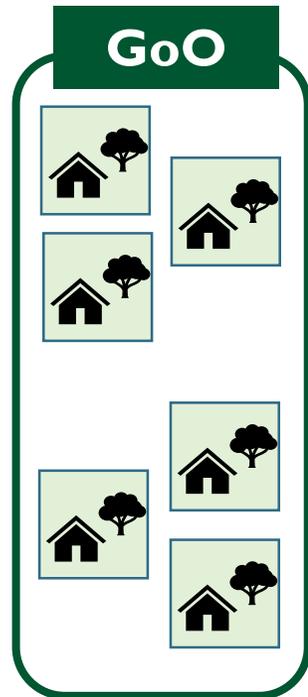
EU Commission FAQ (N°11): Can the group of operators perform preparation activities on the products that it receives from its members?

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.

“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”



Questions
to IFOAM

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IFOAM answer

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.

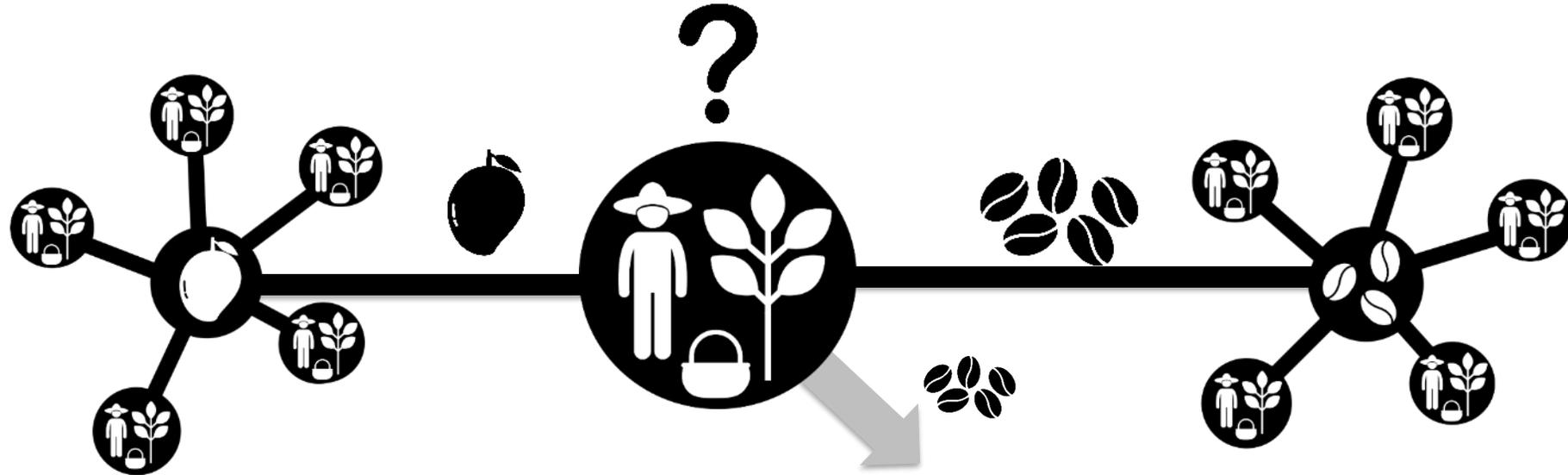
Note: many certified projects may need to review their farmer clustering when identifying best suitable new legal farm group(s) set up to meet the GoO definition.

FAQ: Can GoO Members Sell to Different Buyers?

Questions
to IFOAM

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IFOAM answer



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

Local trader

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.
- Any such sales are NOT certified organic
 - The ICS should monitor these other sales and consider in the group's traceability system.

3. Implications for Certified Groups



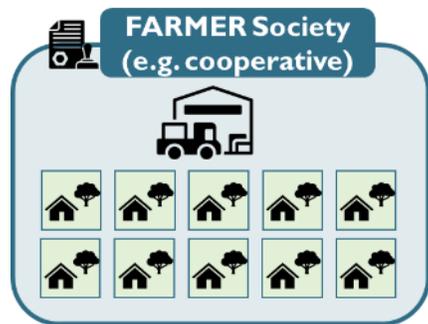
Picture: FiBL

Important Set-up Implications of Art 36.1 for Groups

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

- Only some currently 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 new legal entities as “GoOs”, or identify existing eligible entities to be certified as GoO in the future.

A. Farmer cooperative societies and other farmer organizations with legal personality



Farmers organisations are legally composed of farmers



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

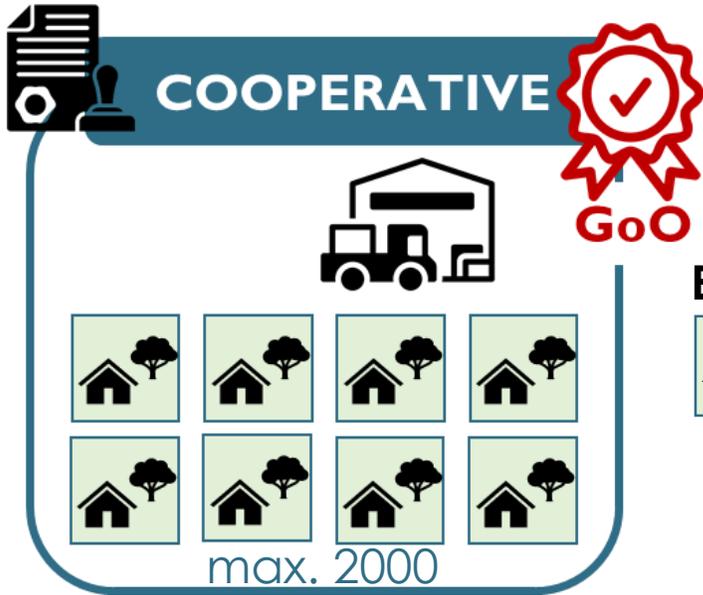


B. Processor/Exporter Organized Group (Contract Production)



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

Implications for Farmers' Organisations



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

BUT ONLY IF the farmer organisation is...



composed only of farmers committed to compliance with EU organic rules = organic or in-conversion statutory members,

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



recognized under national law (e.g. cooperative, society, association, farmer community enterprise, self-help group, etc).

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

 The organisation can be certified as "operator" for preparation & export and can establish a legal entity as GoO composed of eligible organic & conversion members. As an "operator" it can have non-organic members & activities

Farmer society with non-organic statutory members

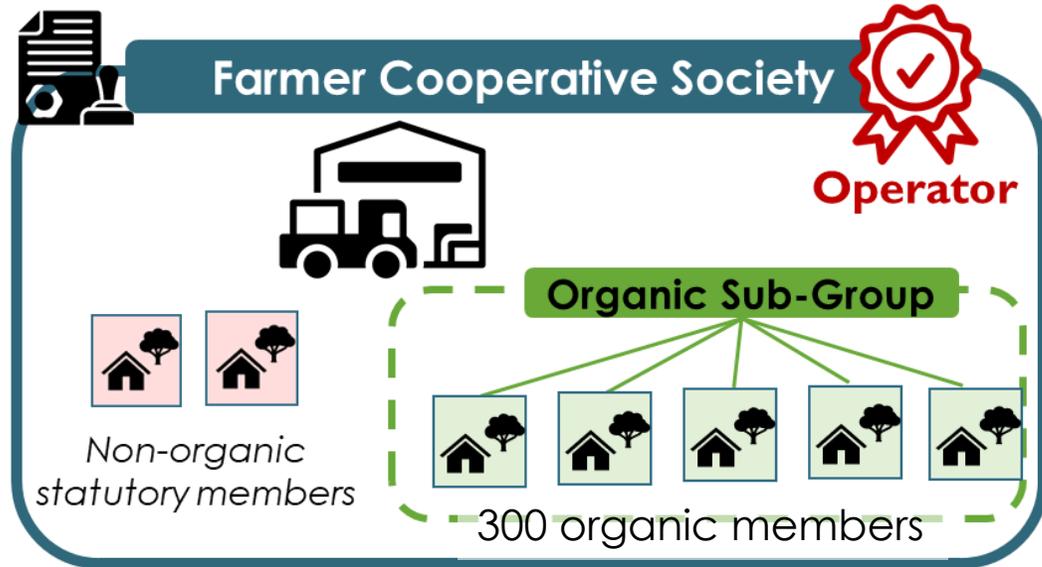
Questions to IFOAM

???

IFOAM answer

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?

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

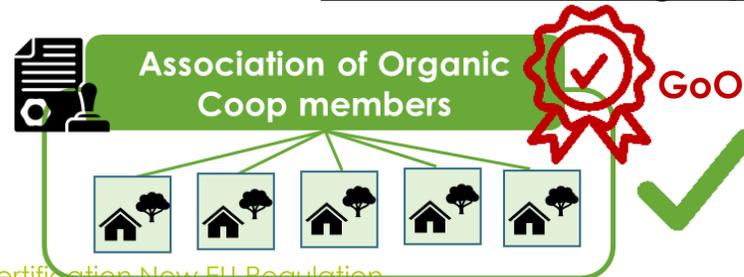


This cooperative can NOT be certified as GoO

But it can 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».

EXAMPLE



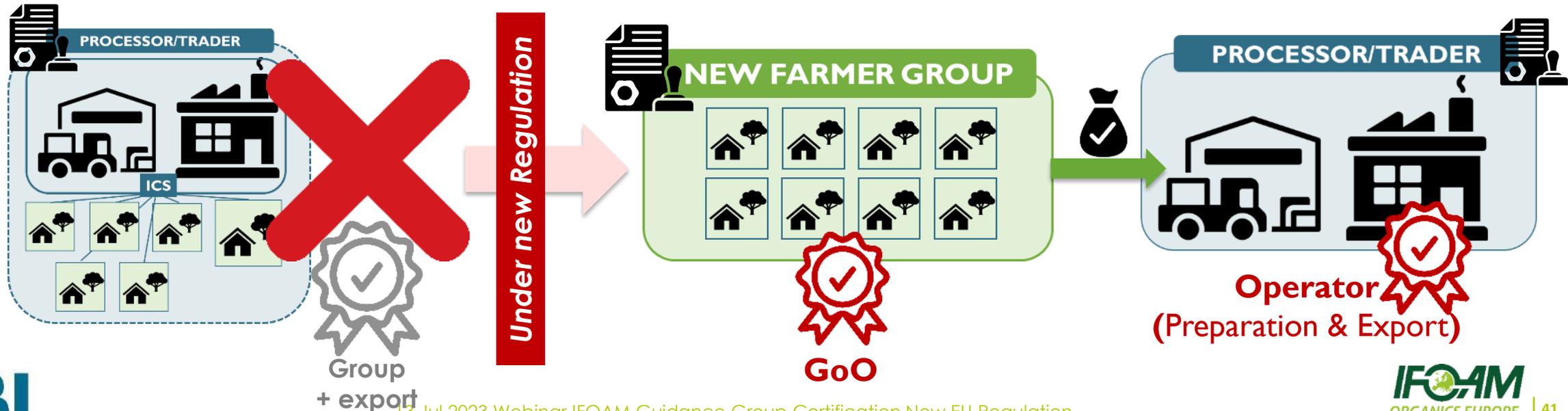
Implications for Processor/Exporter Organized Groups

A processing/export company with associated/contracted farmers is **NOT COMPOSED OF FARMERS** and cannot be certified as GoO. This is a clear intention of European lawmakers.

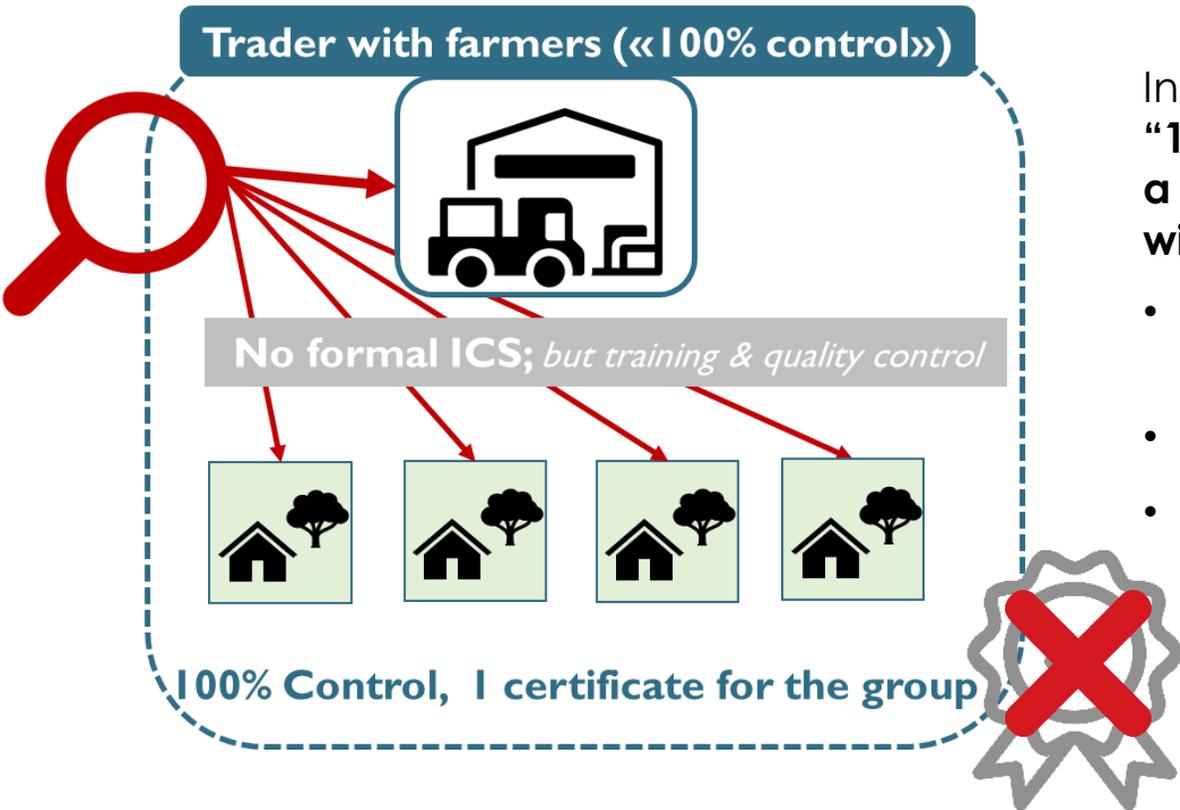


“Group of operator certification is for small farmers, not for companies”

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



Implications for Groups with 100% External Control



In some countries there is another form of group certification: **“100% control without ICS”** : Smallholder farmers associated to a trader or processor are certified under one certificate without a formal ICS , but with 100% external inspection.

- Certification managed and organized by organic processor/exporter.
- 100% of farms are inspected by the CB each year
- No formal ICS, but training & technical support in organic farming; quality control and logistics provided by exporter.

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

- Either GoO legal entities with ICS; externally controlled as GoO.
- OR individual certification of each farmer.

FAQ: Risks & Challenges New Separate Group

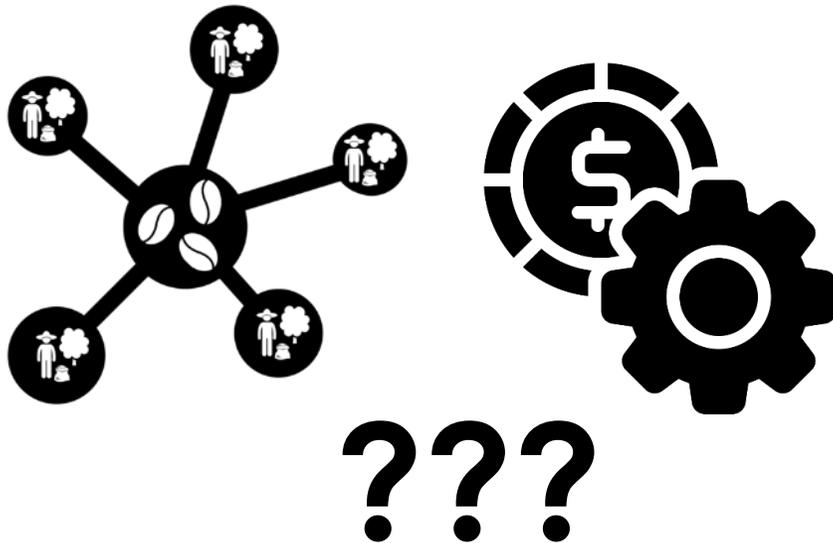
Questions
to IFOAM

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IFOAM answer

We are an processing & export company and need to form a new legal entity for our contracted organic smallholders. How can such a new & inexperienced farmer organization without capital & management, run the ICS as well as business operations reliably?

- **Challenging and complex !!! Requires careful situation analysis and dialogue** between company & farmers.
- **Important to find a taylored solution for each group** which ensures **organic integrity** and **functional business operations** (*incl. purchase at onsite of harvest*)!



The regulation allows some operational flexibility :

- The ICS can operated by the company (if appointed by the GoO)
- The GoO is responsible for joint marketing of the members' organic products. But it can «subcontract» processes to the partner company , e.g. farmgate collection, transport & traceability, etc..
- The company and GoO can agree by private contracts who pays for the certification and other services provided by the company, *In case of certification matters – coordinate with the CB.*

Can a Union of Cooperatives be certified as GoO?

Questions
to IFOAM

???

IFOAM answer

Can a union of cooperatives be certified as a GoO?

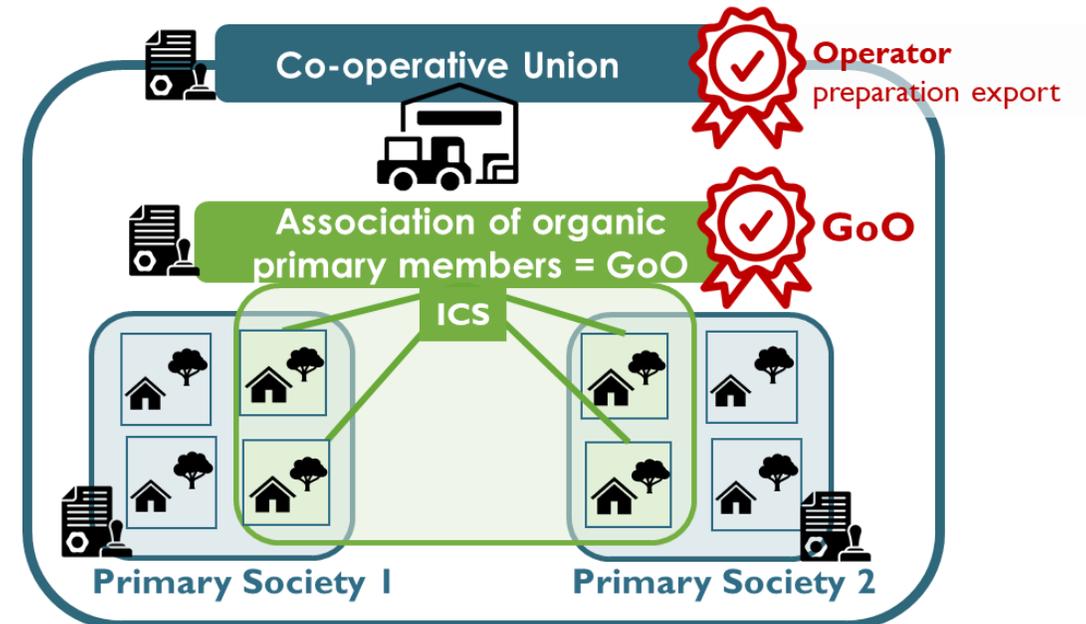
Most certified Unions or Associations (2nd or 3rd degree farmers societies) are unlikely to meet the new GoO definition as they have also non-organic farmers as primary society members and /or have > 2000 members.

→ **A Union could be certified as “operator”** marketing the products from GoO entities (e.g. certified primary societies or a new registered group of only organic primary society members)

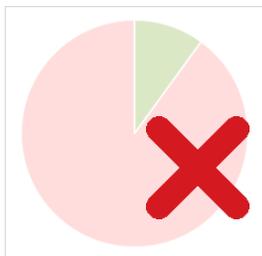
Note: There may be “unions” that meet the new GoO definition, e.g. small organic cooperatives associate for the purpose of forming a larger GoO unit according to EU GoO specifications.

Adaption example 1: Certification of fully organic primary societies as GoO. Union supports the GoOs with ICS services & markets the organic products.

Adaption Example 2 : Union forms new registered association for all eligible organic primary society members as a GoO.



Future set-up: New GoO entities + Market Partner



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

- All “Contract production” groups
- All farmer organisations that not meet the new EU GoO composition or size rules

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



Many future GoO(s) will be new legal entities.

- **Mostly new legal entities set up according to EU specification;** may have close contractual or cooperative relations to the organic coop/trader.
- **Sometimes existing legal entities** may be suitable.

The currently certified company or farmer organization (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 support to new GoO entity, 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.

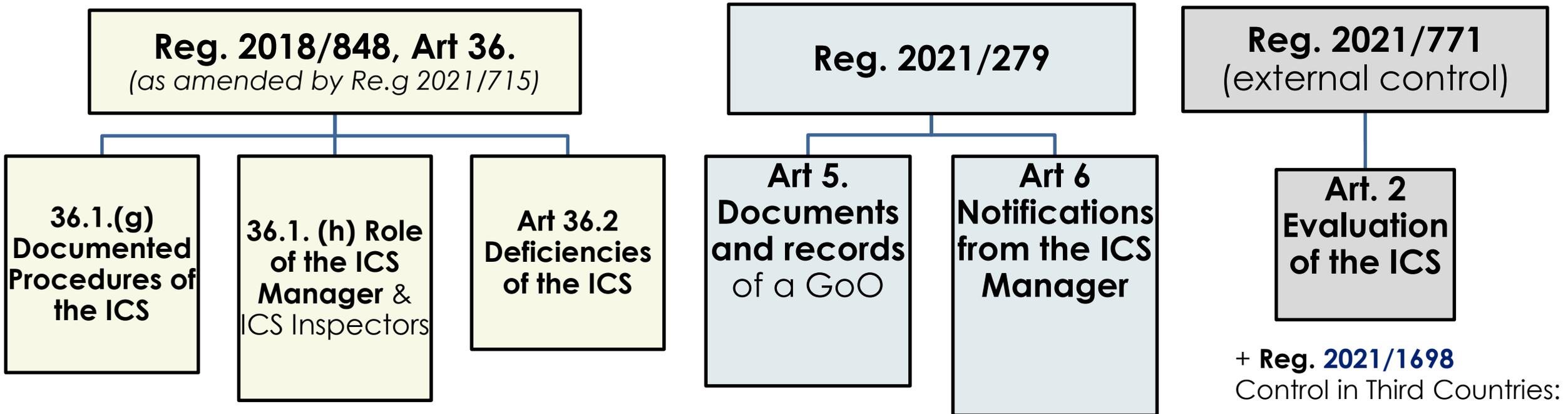
4. Overview ICS Requirements



Photo: FiBL

Overview ICS Requirements in the new EU Regulation

§ In the regulatory texts, the applicable new requirements and rules for the Internal Control System are defined in the following structure & regulatory acts:

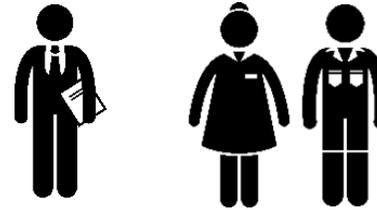


Clearer & More Detailed ICS Requirements



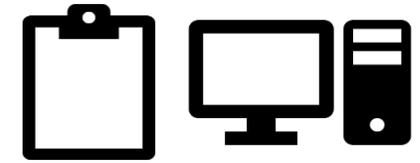
Documented Procedures

e.g. ICS registration & approval new members, ICS inspections, measures in case of NC



ICS Manager & ICS inspectors

- Annual training of internal inspectors



ICS Documents & Records

- **Member list** with details
- “membership” agreements
- Inspection reports
- Various other records

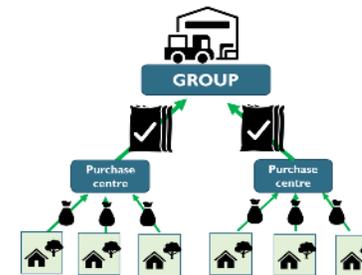


Internal inspections
of 100% of members

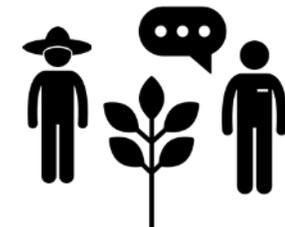


Managing Non-Compliances

& notice to CB if members suspended/decertified



Traceability & product flow control
and records



Farmers Training
(annual)



These ICS procedures are often documented in an “ICS Manual”

The ICS shall have documented procedures on:

(i) Registration of GoO members

(ii) Internal inspection of all group members

(iii) Approval of new members or new units/activities

(iv) Training of ICS Inspectors

(v) Training of GoO members

(vi) The control of documents & records

(vii) Measures in case of **non-compliances**

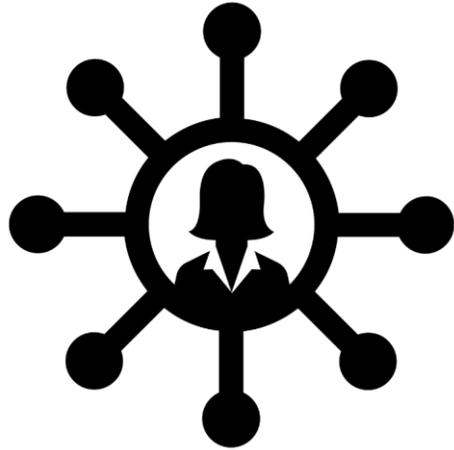
(vii) Internal traceability of products

Recommended Reading: the list of ICS procedures in Art 36.1 (g) (as added by Reg. 2021/715) contains many relevant details on the required ICS procedures.

Art 36.1 (h): Responsibilities of the ICS manager is relevant too, as it also contains details on some core ICS processes (e.g. GoO member agreements)



Reg. 2018/848 Art. 36.1 (g)

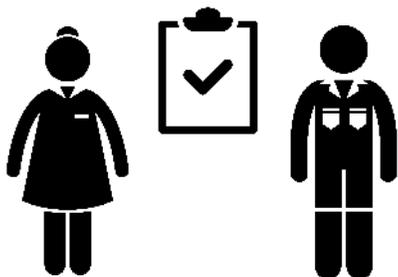


The ICS manager's role requires a senior position in the organisation with the authority, management & technical skills to manage compliance.

The GoO can "appoint" an external ICS Manager.

The "ICS manager" has the responsibility to:

- **verify eligibility & approve GoO members** , new units, etc.
- **develop ICS procedures & forms**; ensure records are up to date
- **schedule internal inspections** and ensure adequate implementation
- **be liaison to the CB; decide on notifications** to the CB
- **ensure annual trainings of ICS inspectors** & assessment of their competencies
- **decide on measures in case of non-compliances**
- **decide on subcontracting activities and sign agreements**



The GoO needs to appoint a sufficient number of competent ICS inspectors for annual inspection of all GoO members.

Annual training with assessment of knowledge acquired (36.1.(g) iv)

Compulsory ICS Documents & Records



→ Full list with required Details in Reg. 2021/279 Art 5

- ✓ List of Members →
- ✓ Signed “membership” agreements (→ Art 36.1 (g))
- ✓ Internal Inspection reports
- ✓ Training & Conflict of Interest records of ICS inspectors
- ✓ Training records of members
- ✓ Measures taken in case on non-compliance
- ✓ Traceability records,
- ✓ Subcontracting agreements
- ✓ Appointments of ICS manager & Internal Inspectors

Compulsory Data Members List (with date & Version)

Name of farmer, identification, contact

Date or Registration

Total land surface managed by member and whether part of organic, conversion, non-organic production unit

Information on each production unit: size , location* crops, begin of conversion, yield estimate.

Date of the last internal inspection & name of ICS inspector

* Location of Production units shall be shown on map “where available”

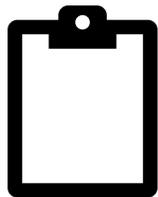
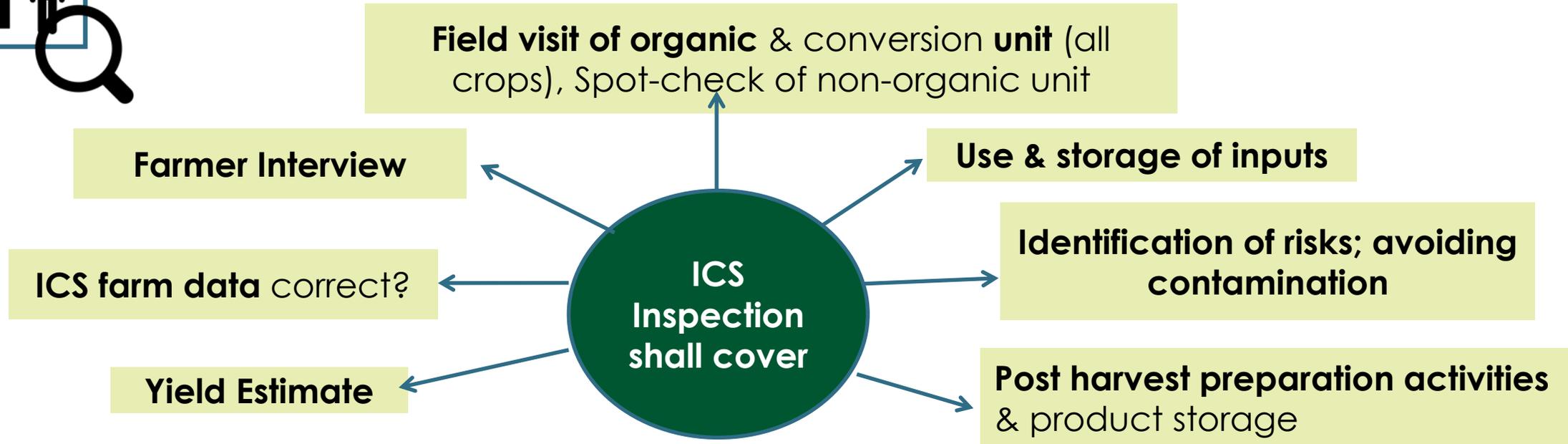


Reg. 2021/279, Art 5

Internal (ICS) Inspections



The ICS has to **annual inspect 100% of members each year**. The date of ICS inspection needs to be indicated in the list of members



ICS Inspection report (Reg 2021/279, Art 5)

- ✓ Details of member & collection/purchase centre
- ✓ Audit scope / perimeter, starting & ending hour;
- ✓ findings
- ✓ signed by farmers & internal inspector



IFOAM Guidance: Inspections should take place at different times to cover risks throughout the production season!

Planning the Internal (ICS) Inspections



The ICS has to conduct **annual internal inspections of 100% of members each year**, according to an internal inspection schedule defined by the ICS manager.



IFOAM Guidance: Inspections should take place at different times of the production season to cover risks!

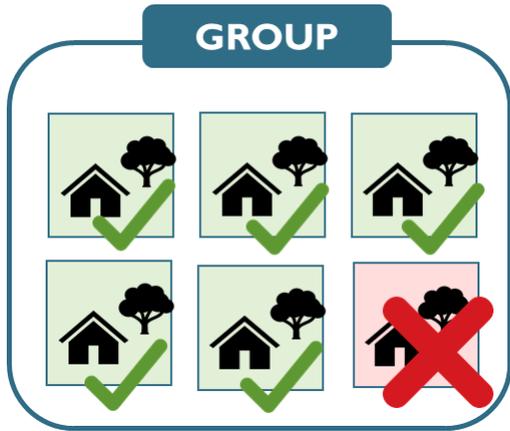
- *it is also important for perennial crops with a defined harvest season that the internal inspection for each harvest is guaranteed, i.e. that 100% inspections take place between the last harvest and the next.*
- *Therefore, the Internal Inspection year may need to be adapted to the harvest year, especially if the harvest time is early in the calendar year, e.g. 100% inspections from April to April each year.*
- *For a few farmers, up to date harvest estimates may then be updated/collected separately from the internal inspection, shortly before harvest.*
- *For annual crops, the critical risk period may be very short, so that most ICS inspections should take place during a short period, with only few inspections at other times to check practices during rest of the year.*



SAMPLE ICS SCHEDULE

- **20% Rainy season**
(herbicide risk)
- **70% producers in the 2 months before harvest**
- **10% at harvest time**
(separation, contamination)

ICS Approval & Management of Non-Compliances



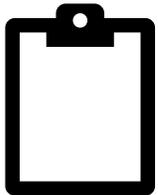
Art 36.1 (g): ICS shall comprise documented procedures on

- **measures in cases of non-compliance detected** during the internal inspections, including their follow-up
- (internal) **approval of new members or (...) new units/activities (..)** by the ICS manager on the basis of the internal inspection report;



2021/279 Art 6: Notifications by the ICS manager in case of serious NCs

The ICS manager shall immediately notify the control body of (a) any suspicion of major and critical non-compliance; (b) any suspension or withdrawal of a member or a production unit or premises, including purchase and collection centres, from the group; (c) any prohibitions of placing certain product lots on the market as “organic”



Records of measures taken by ICS manager in case of Non-Compliance (Reg. 2021/279, Art 5f)

- ✓ Members subject to measures, including those suspended, withdrawn or required to undergo new conversion
- ✓ Documentation of identified non-compliance
- ✓ Documentation of follow-up of measures, e.g. information to the member; information to purchase centre; notification to CB if required, training of members, frequent ICS visits

New EU Categories of Non-compliances

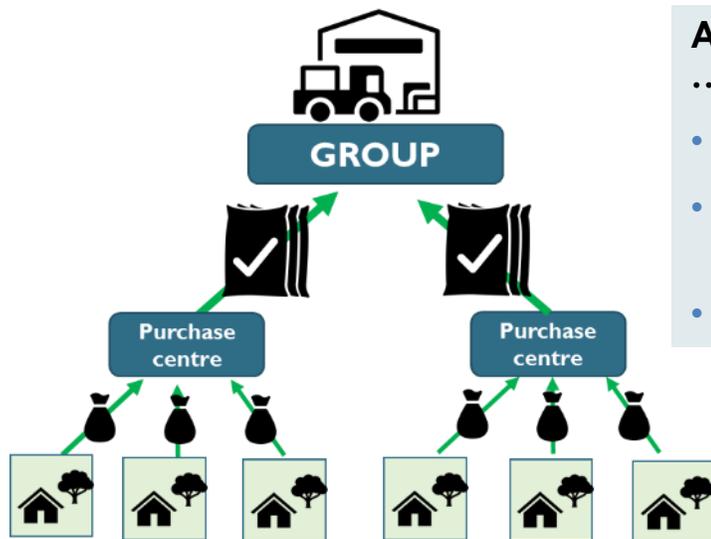
Minor Non-compliance

Major Non-compliance

Critical Non-Compliance

Third Country CBs shall develop catalogue of measures with these 3 non-compliance categories. (2021/1698 Art 22 & Annex IV)

Traceability & Product Flow Control



Art 36.1 (g): “ICS shall comprise documented procedures on ... the internal traceability, which

- shows the origin of the products in the joint marketing system and
- allows the tracing of all products of all members throughout all stages, such as production, processing, preparation or export
- include estimation and cross-checking the yields of each member”

Note: the new requirements extend the ICS responsibility beyond the delivery to purchase centres – ICS responsible for traceability until sales by the GoO legal entity!

- At purchase, **member deliveries must be added up to cross-check** with yield estimates
- **A consistent lot identification system** from point of purchase through preparation & storage up to final sales to another unit is very important.
Note: In case of Major NCs the measures will be more severe if affected lots cannot be located



Traceability Records (Reg 2021/279, Art 5g)

- ✓ **Joint purchase & distribution of farm inputs**
- ✓ **Records on delivery of products from each member**
- ✓ **GoO production, storing (in & out) & preparation records**
- ✓ **Sales of products by the GoO**



Good farmers' training & and ongoing support in organic production is key!
Practical field activities and explanation of production rules with examples in the field always work best!

Farmers' training as new EU Requirement

- ICS shall have procedure for “training of GoO members on ICS procedures and the requirements of the EU organic Regulation”
- Training of members shall be “recorded”.



IFOAM Guidance: ICS should implement an adequate, risk based training procedure, e.g. in-depth initial training for all new members, regular update trainings on ICS procedure & key regulatory requirements as well as topics that have been identified as needing improvements by many members. All forms of training are acceptable.

5. Organic Production Rules for GoOs



Photo: FiBL

Key Changes Plant Production for GoO Members

Most 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 the EU rules (no longer in an “equivalent” way), most groups will experience the rules as stricter.



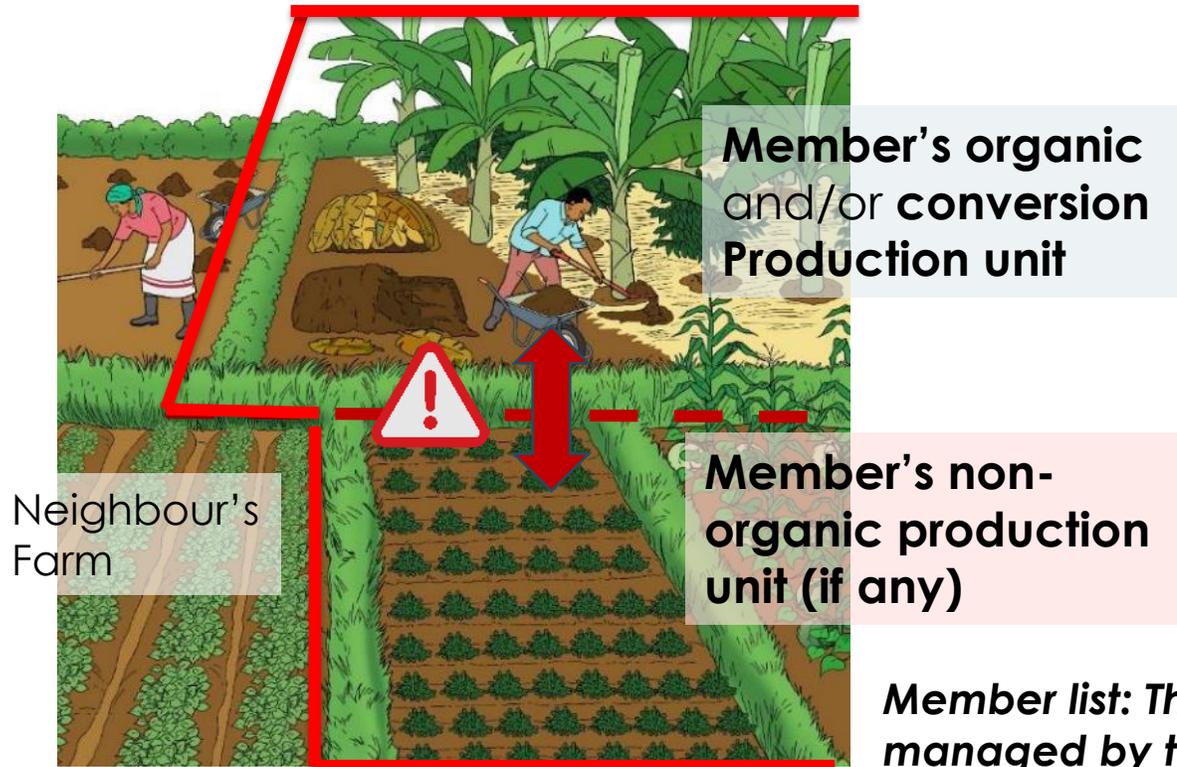
Overview of key changes:

- **ICS to register and check the members entire farm holding** with all “production units” and activities
- **Stricter procedures for authorising** exceptions e.g. for non-organic planting materials, retroactive recognition of conversion, parallel production.
- **Stricter rules for soil fertility management** (e.g. compulsory rotation including legumes) **and pest & weed management**
- **New list of authorized substances; new additional restrictions for substances for plant protection**
- **Documentation of precautionary measures**

*Note: > 99% of certified groups produce organic plant products for export to the EU
→ this guidance section focusses primarily on plant production in GoOs.*

Members' Farm Production Units

The ICS needs to control the entire holding used for agricultural production under the GoO member's management. The holding shall be managed organically. Alternatively, it may be split in clearly and effectively separate "production units". Production unit means all assets of a holding, including land parcels and premises for primary production and storage (Art 9.2 & 9.7):

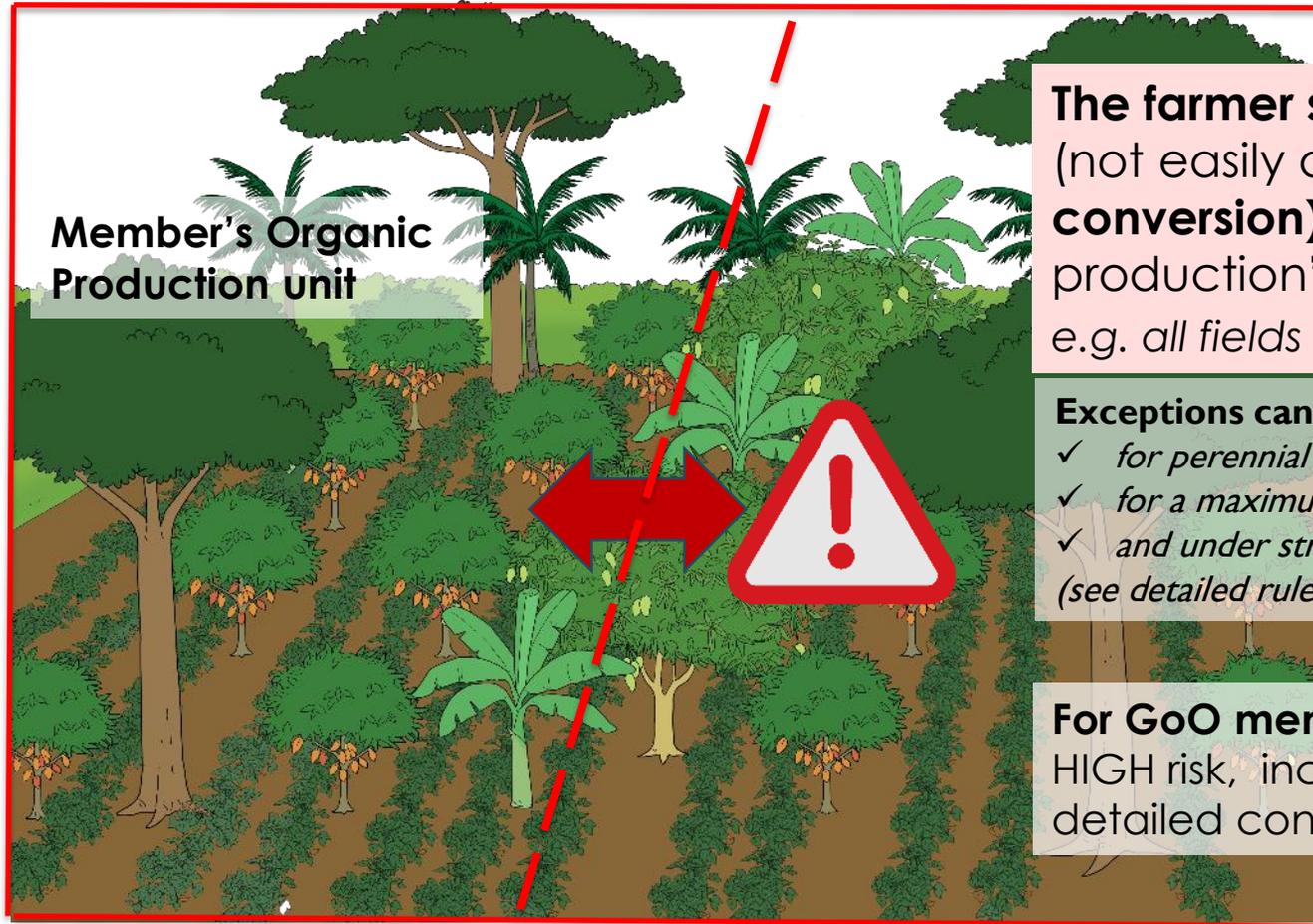


- ✓ all crops in this unit(s) must be managed in line with the organic production rules!
- ✓ all land for production of organic crops shall be in the "organic unit", including rotation land!
- ✓ New: in-conversion" unit separate from organic unit

- ✓ Non-organic activities (normally crops not sold to GoO) only on clearly separate defined land parcels
- ✓ Strict separation of activities & avoiding contamination by members – to be checked by ICS!

Member list: The ICS needs to register the member's entire farm holding managed by the member - not just plots with crop(s) sold to the GoO.

Members: Same crop in Organic & Non-Organic Unit



The farmer shall not grow the same certified organic crop (not easily distinguishable variety) in the organic (or conversion) and non-organic farm unit. (no “parallel production” by member)

e.g. all fields with cocoa trees shall be managed organically.

Exceptions can be authorized by the CB but only

- ✓ for perennial crops,
- ✓ for a maximum of 5 years until last plot is organic, with a conversion plan
- ✓ and under strict conditions for notification of each harvest period to CB (see detailed rules in Art 9.8)

For GoO members parallel production is not recommended: HIGH risk, increases control; most ICS unable to meet the detailed conditions and manage the high risks.

Conversion Period & Retroactive Recognition

The conversion period has not changed, but there are stricter & more detailed requirements on authorising retroactive recognition of conversion. This has implications for GoO's.

Retroactive Recognition (outside EU)

CBs can grant "retroactive recognition of a previous period as part of the conversion period", but under strict conditions.

- **Detailed documentation by operator** to prove that the land was natural/not treated for past 3 years:: *maps, geolocation, photos, details of current production*
- **CB shall carry out risk analysis, risk-based sampling and provide inspection report after physical inspection** to verify consistency of information (see 2021/1698 Art 24)



Handling Conversion in a GoO's ICS

Documented ICS Procedures for registering & approving new members or adding fields/activities for existing members and for handling conversion.

ICS investigates & collects documentation for all new members/plots proposed for retroactive recognition

Retroactive recognition of conversion can only be authorized by the CB after risk-based verification onsite!



Conversion: Reg 2018/848 Art 10 & Annex II, 1.7
Retroactive Recognition Third Countries: Reg. 2021/1698,; Art. 10 & Art.24
ICS Procedures new members/units & role of ICS manager: Art 36.1 g & h

Seeds & Plant Reproductive Materials (PRM)

For production of organic plant products, organic seeds and plant reproductive material shall be used. Non-organic untreated seeds and reproductive materials may only be used **AFTER** annual authorisation to the GoO by the CB in Third Country under specific conditions. Seedlings must be grown from seeds using organic methods.



IFOAM Guidance for GoOs in Third Countries

- ICS must inform members & control that for certified crops:
 - ✓ only organic (or conversion) seeds, PRM and/or seedlings may be used **OR** untreated non-organic seeds/PRM pre-approved by the CB.
 - ✓ No use of chemically treated seeds in the organic fields
- ICS may need to support members in production or sourcing of organic seeds/planting material;
- Annual application to CB for non-organic seeds and PRM.



IF APPROVED
BY CB & not
treated



Reg. 2018/848 Annex II, 1.8 (as amended by Reg. 2022/474).
Authorisation in Third Countries: Reg 2021/1698 Art 25



Detailed and clear requirements can be found in Regulation 2018/848 Annex II, Part I

- Production in living soil (Sections 1.1-1.6)
- Organic soil management (Section 1.9)
 - Maintain & increase soil organic matter & soil life, prevent compaction & erosion
 - Annual crops: Multi-annual Crop rotation including leguminous crops required
 - Perennial crops: plant diversity & use of short-term green manure & legumes
 - Use of livestock manure & compost;
 - External inputs kept to minimum



Reg 2018/848 Art 6 & Annex II, Part I: Sections 1.1-1.6 & 1.9
Authorized fertilizers & soil conditioners: Reg. 2021/1165, Annex II

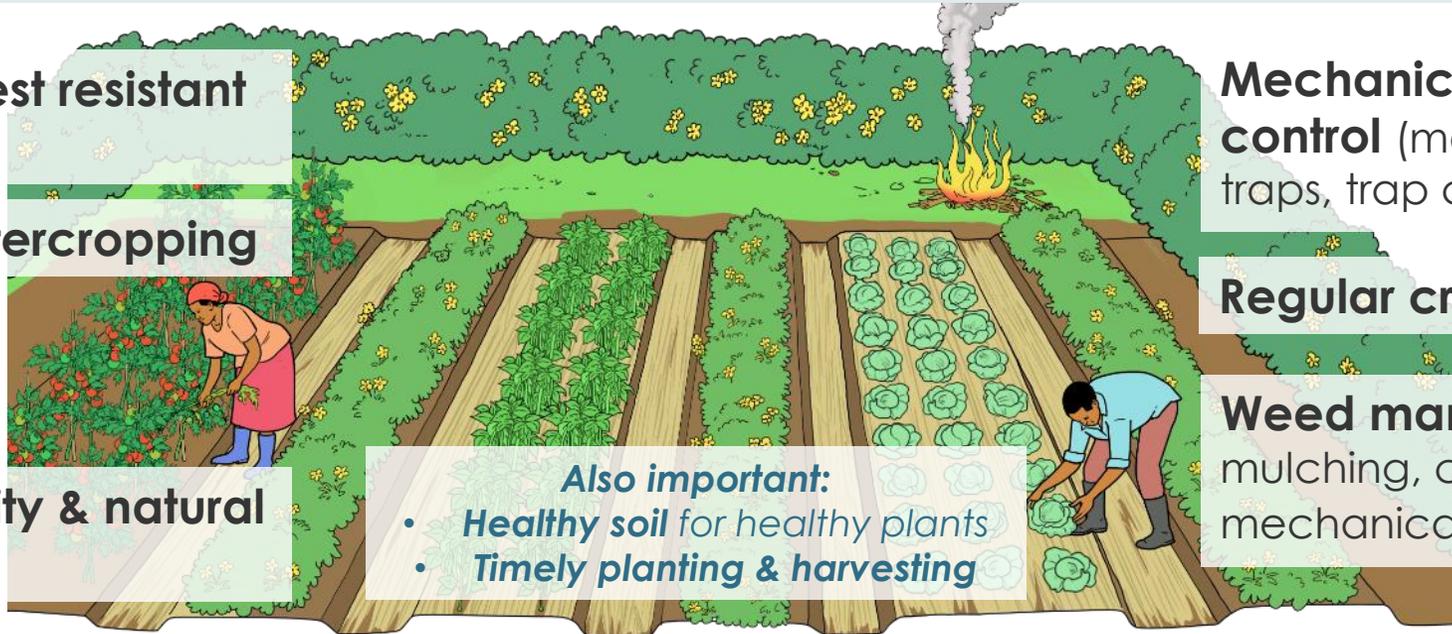
Organic Pest & Weed Management: Smallholders

Detailed preventive measures and pest & weed management methods are described in Annex II, Part I, 1.10. For smallholder farmers the following requirements are particularly important:

Well adapted & pest resistant varieties

Crop rotation & intercropping

Promote biodiversity & natural enemies



Mechanical or cultural pest control (manual removal, traps, trap cropping)

Regular crop monitoring

Weed management by mulching, cover crops or mechanical measures only;

Also important:

- Healthy soil for healthy plants
- Timely planting & harvesting

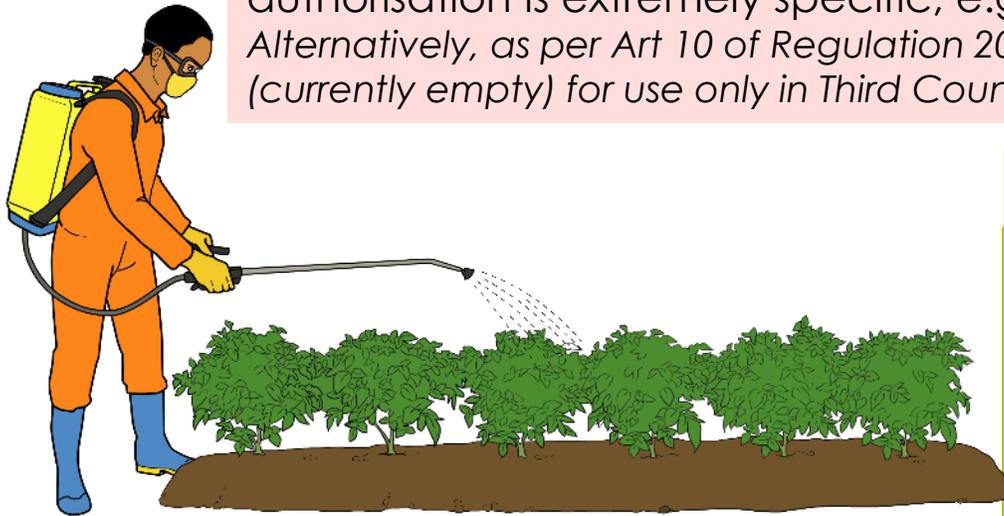
Only where these measures are not sufficient or in case of an established threat to the crops, products & substances authorised in Reg. 2021/1165 Annex I may be used.

Authorized Farm Inputs

New list of authorized substances for inputs: Regulation 2021/1165

- Same list applies for EU & worldwide (without any flexibility to adapt to local conditions)
- Only listed substances may be used and only than for crops / use specified in the list!!.

NEW : For use as plant protection, the exact substance must listed in 2021/1165 Annex I AND ALSO be authorized for use in EU agriculture (listed in Reg. (EU) 540/2001 or EU pesticide database). EU authorisation is extremely specific, e.g. for microorganisms per strain. Alternatively, as per Art 10 of Regulation 2021/1165 a substance can be requested to be added to Annex VI (currently empty) for use only in Third Countries, based on a detailed technical dossier.



Additional IFOAM Guidance for GoOs

ICS must ensure to have CB authorisation for the product before allowing members to use it: Note: some plant protection products, may no longer be accepted, check with CB

Tip: Many groups source organic farm inputs jointly and supply them to members (this must be recorded).

IFOAM collaborates with IBMA and EOCC on this topic in a separate project, events or resources see IFOAM website .

Livestock, Bee Keeping, Aquaculture in GoOs

Art 36.1 (a) allows Group of Operator Certification of FARMERS as well as OPERATORS THAT PRODUCE ALGAE OR AQUACULTURE ANIMALS. Livestock production is defined as agricultural activity and hence any organic livestock producer is a “farmer” and can be certified in a Group of Operators.

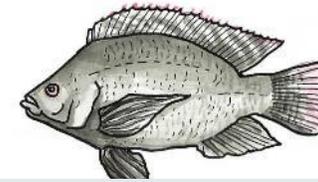


Bee Keeping = livestock production; small beekeepers can be certified in a GoO

(confirmed also in EU Organic Rules FAQ (4).

Specific production rules: Annex II, Part II: all general livestock rules & section 1.9.6.

Please note that honey production cannot be certified as “wild harvest”



Small Aquaculture operators or algae producers/collectors can be certified in GoOs. Specific aquaculture production rules (Animal & Algae) → in Annex II, part III

Additional IFOAM Guidance for GoO of Beekeepers or Aquaculture Operators

- For assessing the eligibility of beekeepers as GoO members, the maximum farm holding size is not a suitable criterion, as beekeeping is the only livestock production that can be “landless” (Annex II, Part II, 1.1) and bees roam over a large area.
- For both beekeeping and aquaculture production IFOAM recommends applying the maximum organic turnover limit (Art 36.1.b-i) as the key relevant eligibility criterion for GoO membership, i.e. 25'000€/year for all countries where individual operator certification would cost more than 500€/yr. For aquaculture: a forest with ponds counts for the total land “holding”.

Wild Collection versus Groups of Operators

**Wild harvest of plants is considered «plant production» under the new EU Regulation.
Specific production Rules: : Annex II, Part I Plant Production: Section 2.2 Rules for the collection of wild plants.**

Some wild collection projects have some overlap with agricultural production or have similarities with Group of operator certification. → **Each “wild collection” project should be carefully evaluated by the CB to determine which plant production rules shall be applied.**

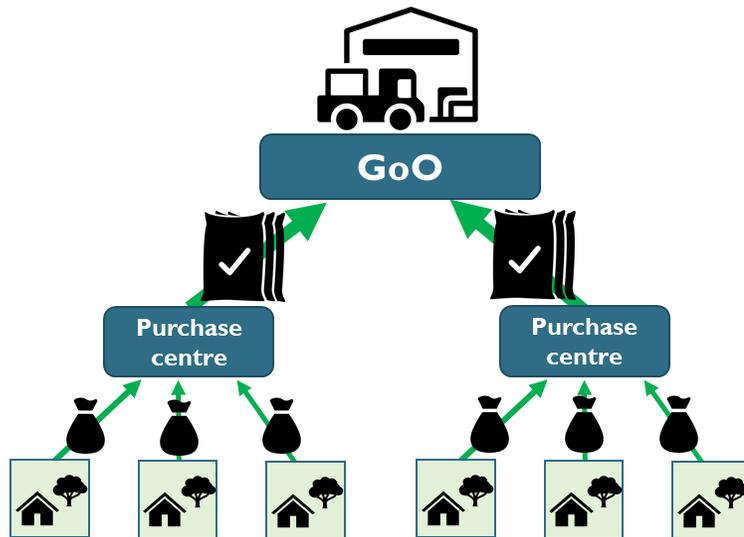


IFOAM's understanding of the rules:

- **Classic wild collection** in defined natural areas e.g. forests by collectors without cultivation measures, can continue to be certified as “plant production” under the “wild plant collection” rules.
- **GoO certification of the “collectors” as farmers is needed** to ensure organic integrity, if the collectors collect the products in natural areas as well as from their agricultural holdings (e.g. nut trees that grow also around their farm) or if they grow the same crop which they collect in the wild,
- **If a wild collection company also contracts small farmers** to grow the same “wild” organic plants for them: → every grower must be certified, either as individual farm or in a GoO (*separate legal unit from wild collection company, same as any GoO*)

Internal Traceability & Product Flow Control in a GoO

Full internal traceability from organic farmers to sales by the Group, is a core responsibility of the ICS and of critical importance for the organic product integrity. Note that ICS will be responsible for organic traceability during all stages (even beyond purchase) until sales by GoO!



Documented ICS procedure on internal traceability (Art 36.1.g-viii)
→ Internal traceability system that allows tracing of all products of all GoO members throughout all stages, until sales by the GoO.
EU can request to trace lots back to the farm origin

Reg. 2021/279 Art 5 (g): (GoO has to keep) Records on delivery of products from each member to the joint marketing system
High traceability expectations → For each lot contributing members with respective quantities must be recorded

The ICS has to internally inspect all purchase centres each year Reg 2021/771, Art 2

Key Rules Preparation/Processing by Members

GoO members are in most cases involved in handling, processing & storing the organic crops before sales into the GoO's collective marketing system. This activity must be controlled by the ICS!



Only authorized substances may be used at any time for pest control in any area where organic products are stored or handled.

Key production rules preparation/processing by Members

- **Precautionary measures to avoid commingling and contamination of the certified product at all stages (Art 9.6):**

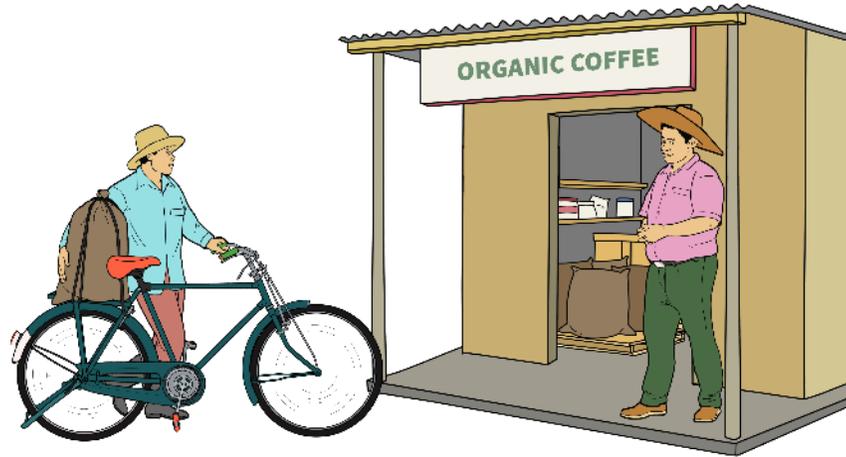
- during all post-harvest activities by the member
- during on-farm storage
- during member's transport to the purchase centre

Note: the required separation measures if member's is be handling of the same crop in organic/conversion quality are tricky to manage in a GoO – possible under ICS supervision of member's harvest & handling activities;

- **Only specified products will be allowed for cleaning & disinfection in on-farm production, processing and storage** from 2024
(will be included in Reg. 2021/1165;)



Reg. 2018/848 Art. 9;6
From 2024: Reg. 2021/1165 Authorised Substances, Annex IV



General Collection Rules (Annex III) applied to GoO

If Farmers deliver the products to a GoO purchase centre

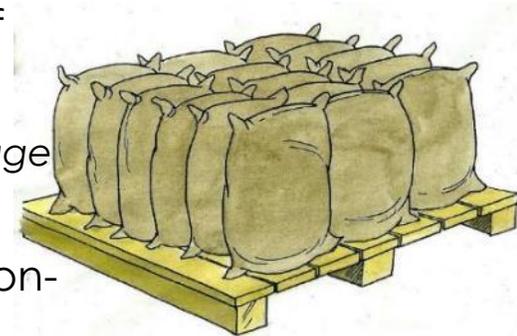
- ✓ Receipt to farmer & purchase record
- ✓ Documented Reception check: member certification status & yield estimate



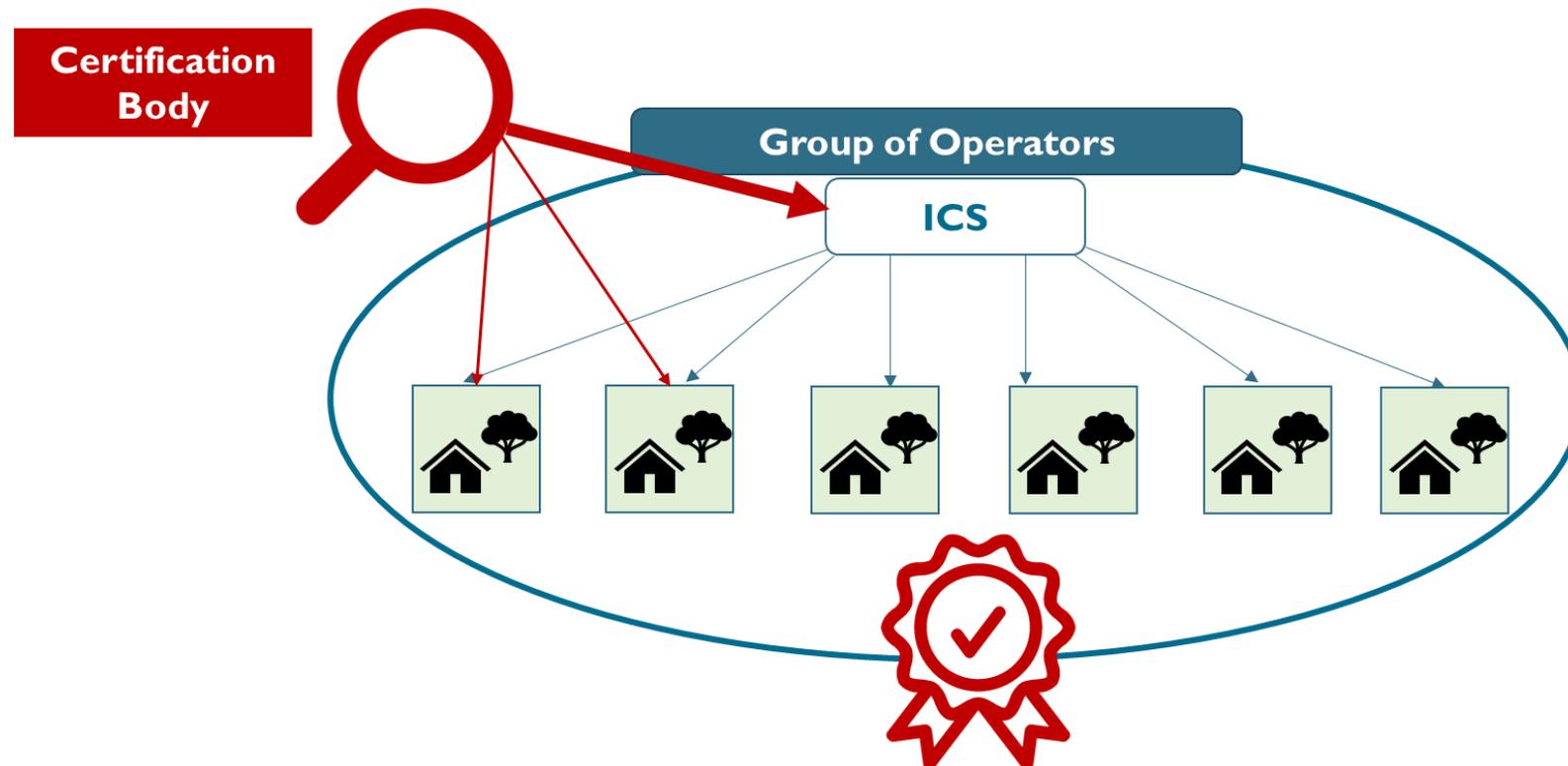
If farmgate collection system by the GoO: Detailed measures to be taken by collection driver : Annex III.1

General principles for storage & preparation of organic products at all times

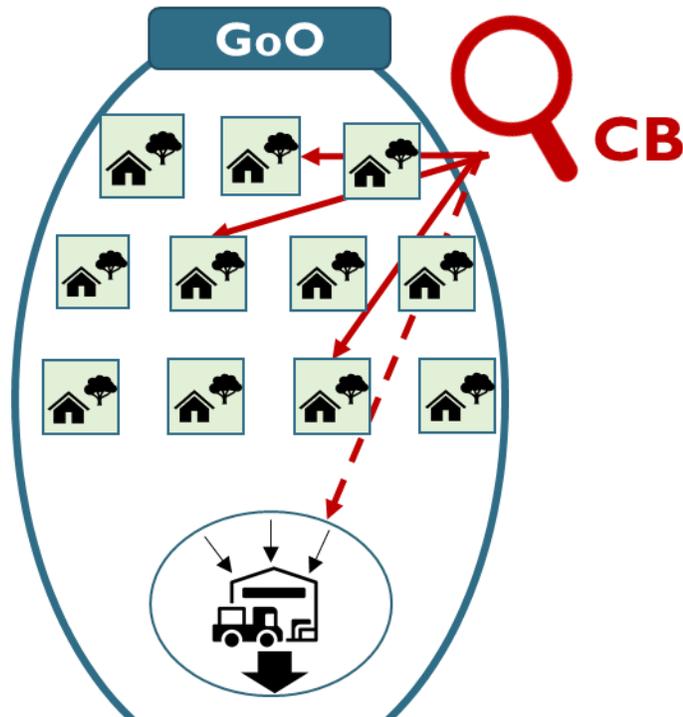
- **Storage:** Clear identification of organic products at any time, detailed measures in case of storing multiple qualities or other agricultural products. (→ Annex III, 7.1 & 7.4)
- **Precautionary measures to avoid contamination and commingling** (*clean packaging or storage areas, only authorized for pest control in areas used for storing organic products at ANY time etc.*)
- **ICS control to ensure that** organic products are not commingled with conversion and/or non-organic products at all times;
- **If GoO “processes” members’ products (e.g. extraction, curing) → Processing rules in Annex II, Part IV apply.**



5. Key Changes External Inspection



External Control of Groups of Operators



➤ **5% Re-Inspection**



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

- ✓ **Physical Inspection of the GoO “at least once a year”**
 - plus unannounced checks (minimum 10% of Operators & GoOs)
 - EU will define list of high risk products/countries. Affected operators & GoOs will need to be inspected twice a year (2021/1698, Art 8)
- ✓ **The certifier needs to re-inspect minimum 5% of the total number of GoO members each year (not less than 10)**
 - Will increase number of farm re-inspections for all groups > 400 members, but lower the inspection rates for groups between 100-400 members.
 - Strongest effect for large groups
- ✓ **Control of Purchase or Collection Centres**
 - GoO purchase centres used for non-organic products are subject to verification at least once a year (2021/1698 Art 9.9)

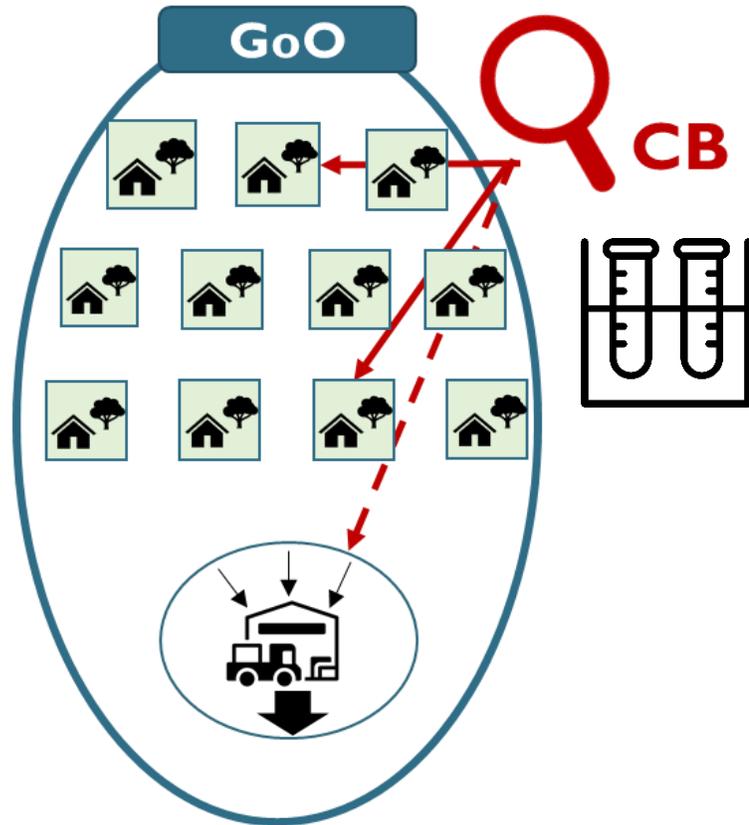


The new GoO (and operator) certificate

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

Certificates of inspection (COI) for each consignments to the EU
see 2021/1698 Art 16

External Control: 2% Sampling for Analysis



CB needs to carry out sampling of at least 2% of the members of each GoO each year

2021/1698 Art 12:

1. The CB shall take and analyse samples for

- **detecting the use of non-authorized products** and substances for organic production,
- **for checking production techniques** not in compliance with the organic production rules or
- **for detecting possible contamination** by non-authorized products and substances for organic production

3. **Samples shall be taken based on the CB's risk assessment** (...), taking into account all stages of production, preparation and distribution."

IFOAM comments:

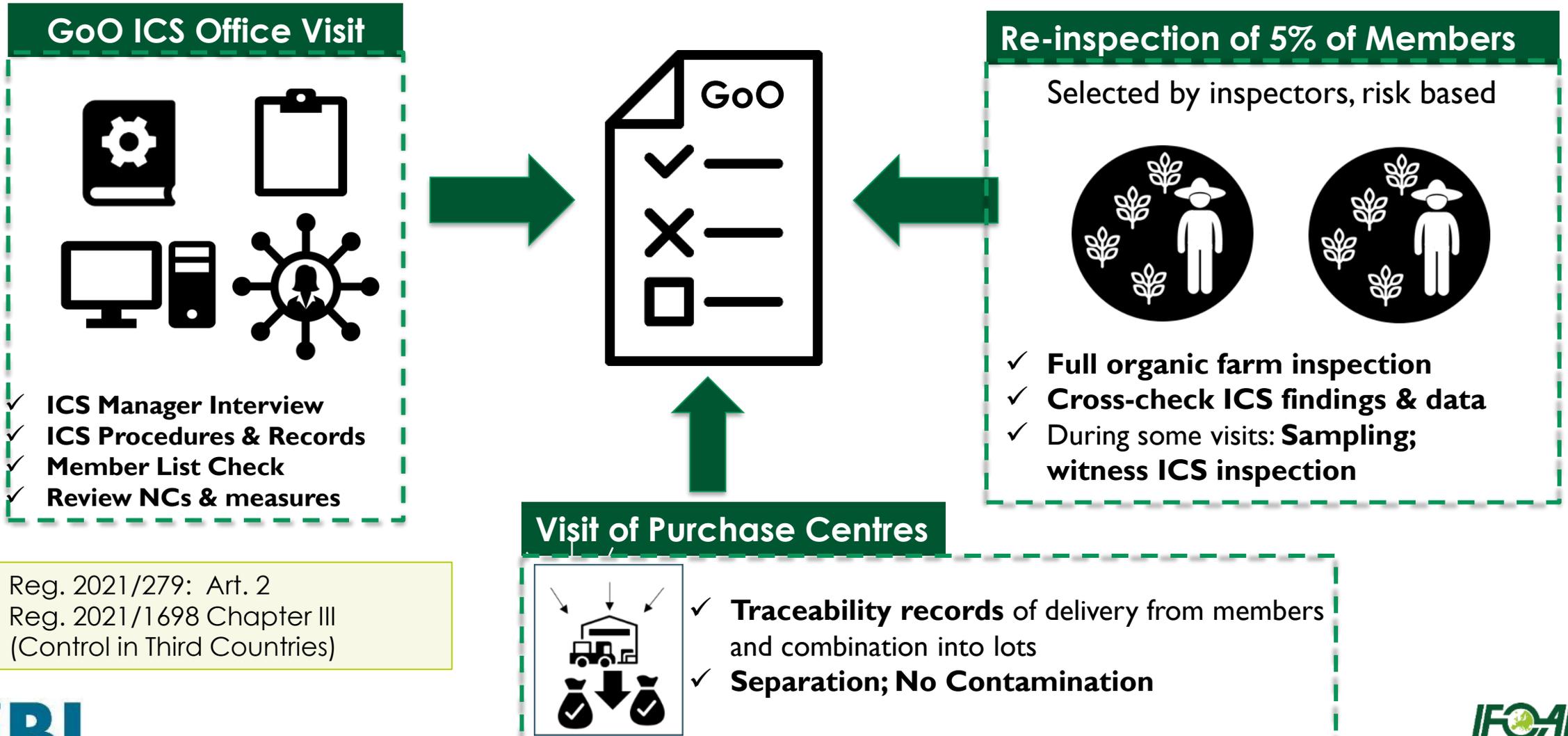
- Risk-based sampling as defined in CB policies (*as submitted to EU*)
- Likely to result in higher costs for groups, takes time during audit



2021/1698, Art 8 & 12 (Control in Third Countries) Reg. 2021/279:

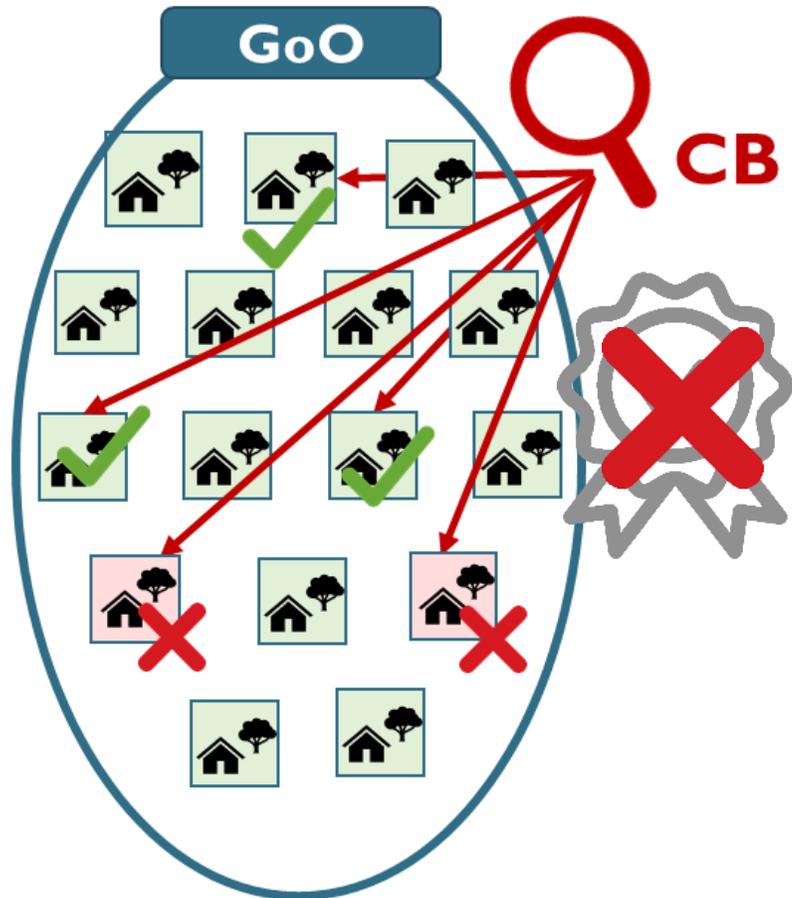
Even more intense sampling will be required for “high risk products” as defined by Reg. 2021/1698 Art 8 (1 sample per lot imported)

External Inspection of a GoO



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

ICS Deficiencies / Implication of ICS Failure



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.

Art 36.2 includes a long list of “ICS deficiencies” e.g.

- **Not carrying out 100% physical internal inspections each year**
- **Serious deviations** between findings of internal/external inspections
- **Serious deficiencies in imposing appropriate measures** in case of NCs
- **Processing/selling products** from suspended or withdrawn members;
- **Adding new members** (or units) to the list without following procedures,
- **Inadequate number or competency of internal inspectors**



Reg 2018/848 Art 36.2

EU Group Certification Rules Will Differ From All Others!



New NOP rules for grower groups published

- ✓ Company organized 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% whatever is higher

Final Rule: <https://www.regulations.gov/document/AMS-NOP-17-0065-0001>
→ Section 16 "Certification requirements for grower group operations"

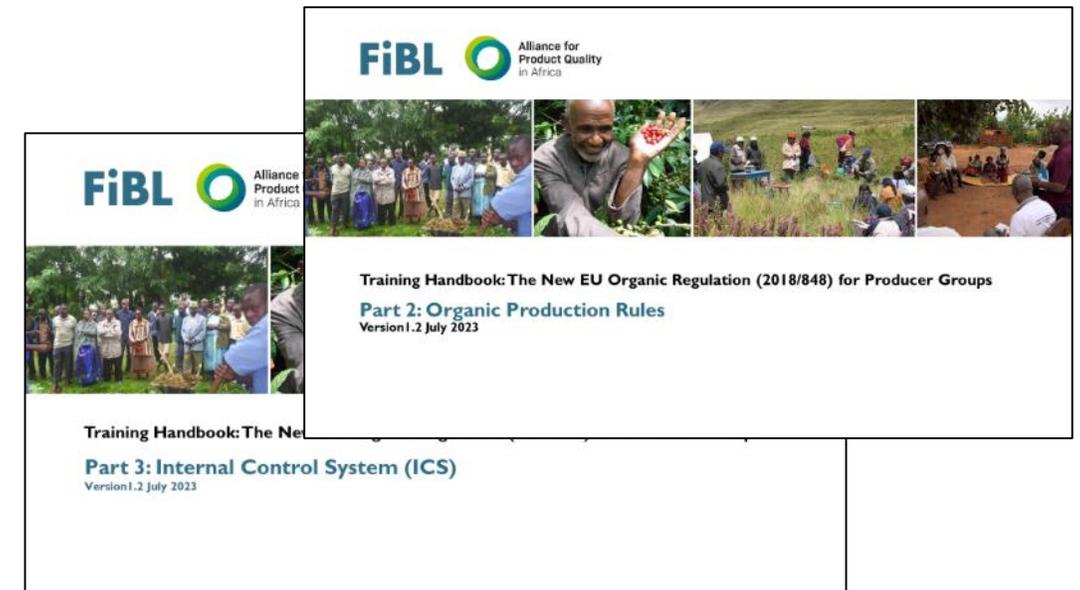


- External Control Rate = square root
- No maximum number of members!

IFOAM Guidance & Training on External Control of Groups of Operators for CBs in third countries



FIBL/Alliance for Product Quality in Africa Training Handbook on the new EU Regulation for Producer groups
(to be published soon in FIBL shop) with more details on on organic production rules & ICS requirements



This and further resources on the new regulation for producer groups will be published or linked to on ifoam.bio as they become available.



Thank you for your attention!

 Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Federal Department of Economic Affairs,
Education and Research EAER
State Secretariat for Economic Affairs SECO



FiBL



Questions & Answers

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