**Group of operators in the new EU Organic Regulation**

*Position Paper to the EU Commission*

*by IFOAM-Organics International*

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# Background of this position

The EU Commission is currently looking into the development of complementary rules on the certification of groups of operators in the new EU Organic Regulation, to complement requirements that have already been published in the new Regulation 2018/848. In order to provide quality input into this process, IFOAM-Organics International has led a process of expert and stakeholder consultation and developed a position on some of the issues identified as most pressing in the context of this regulatory development. The position presented here is based on the following past and recent processes:

* The basic minimum requirements for Internal Control System have been well agreed during the early IFOAM harmonization work in 2003/2004. This work involved stakeholders from across the world through a series of consultations and workshops, the output of which have been taken up into the former EU guidance on group certification.
* Since then, IFOAM-Organics International has also been involved in an ISEAL process in 2008 to improve and harmonize group certification requirements across various socio-environmental certification schemes.
* IFOAM-Organics International was also involved in the NOSB discussions around the same period to produce the NOSB guidance on multi-site certification. We consulted our constituency and group certification stakeholders globally, before giving input into this US process.
* Today, the resulting agreed principles of good ICS management are best summarized in the IFOAM Accreditation Requirements in the section 8.3.3. The current EU guidance document on group certification includes some key ICS elements, but not all that are covered in the IFOAM Accreditation Requirements. The IFOAM Accreditation Requirements remain the basis of what we consider the minimum requirements to guarantee effective group certification.
* More recently, FiBL conducted a study on the status of implementation of group certification, in which IFOAM-Organics International was also involved as a partner.
* Based on the findings of this study, IFOAM-Organics International organized in March 2019 a broad expert online consultation on a series of key issues identified as potential areas of improvement in group certification requirements. The findings of this consultation were then discussed in a 2-days international expert workshop that took place in May 2019 in Bonn, Germany. Representatives of the EU Commission also attended this workshop.
* After the workshop, further consultation of experts and stakeholders was done to draft the present position which has been approved by The IFOAM-Organics International World Board.

# Who can be certified as a “Group of Operators”?

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| Relevant parts of 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;  (**d) have legal personality;** |
| **Background** |
| The currently estimated 2.6 Mio certified organic smallholder producers in “developing countries” which are certified in about 5900 organic producer groups (FibL, 2019) can be categorized into 2 types of groups:   1. **Organized farmer groups,** **e.g. cooperatives, farmers associations, federations/associations of cooperatives**    * Members are farmers. The cooperative/association is the certified legal entity operating the ICS. Farmers become members by signing a contract with the co-operative outlining their duties and rights (e.g. to services) as members.    * Most cooperatives have non-organic and organic members, i.e. the organic group certification for the cooperative covers only a defined organic sub-group of members. The cooperative may also have organic farm members that are larger than “smallholders” (larger than e.g. current EU farm size limitations), which are currently externally inspected every year.    * There are also many certified federations of grass-root farmer cooperatives (2nd degree cooperatives), i.e. the members of the certified federation/association are cooperatives (which can be very small local cooperatives with only a few farmer members). This form is quite common in Latin America and also present in Africa and Asia. It is also prominent in some part of the EU e.g. Italian fruit and vegetable growers.    * Organized farmer groups are predominant in Latin America (many smaller groups of typically 80-250 members) but there are also some farmers cooperatives in Africa and Asia which can be very large in terms of number of members as landholding are very small (1-2ha). The most important crops commonly grown in organized farmers groups are coffee and cocoa.    * In terms of number of growers, we estimate that this form (incl. 2nd degree cooperatives) constitutes slightly **more than half of all organic farmers currently certified through group certification, but only a quite limited range of organic products and origins.**    * The experience of the Fairtrade system, who attempted to restrict certification to the organized farmer group model, illustrates that it is extremely difficult, if not impossible, to impose to farmers in all parts of the world to form legal group entities for the purpose of certification. Fairtrade historically requires farmers to organize as a cooperative to obtain Fairtrade certification, and this can lead in some regions and crops to quite artificial management structures, where groups exist mainly “on paper” and have only very limited involvement in day to day production & marketing operations. Also, Fairtrade found[[1]](#footnote-1) that they had to allow certification of trader led groups “contract production” in various products as these crops are not available from co-operative origins only.      1. **Trader managed group; Processor/Trader with affiliated farms**    * A trader/processor sets up and manages a group of affiliated farms by signing contracts with local small farms to produce and supply organic crops. The contract outlines the responsibilities and duties of the farm member and the trader as the group operator.    * The trader trains the farmers in organic production and operates the ICS for all affiliated farms. The trader with its affiliated farm group is the legal entity listed on the organic certificate (with additional list of certified farms members). The affiliated farmers are considered “members” of the group, as they are part of the trader’s group & ICS.    * With regard to compliance with organic regulations, the legal entity, the processor/trader, takes on a very similar role as a cooperative does for its members: buying & marketing of the farmers products, supplying services (training, control) to the members, ensuring compliance of group members by operating the ICS.    * This type of “trader managed group” has been common in organic certification since many decades and has been presented as one of the two possible group forms in all IFOAM group certification guidance and training materials. It has been a common and well accepted form of “group operation” according to all previous versions EU Regulation as well as USDA NOP and other national regulations, all of which have used the term “members” for the certified farms in the group operation – e.g. 2008 EU Guidelines on imports of organic products into the European Union states in chapter 8.C.4 that “In principle only small farmers can be members of the group covered by group certification. Processors and exporters can be part of the structure of the group, but have to be inspected annually by the external inspection body.”    * Trader managed groups are very common and prevalent in many parts of Asia as well as in Africa, but they also exist in Latin America. The reason is mainly cultural and historical (farmers less willing to engage and organize in cooperatives, which have a negative reputation in some parts of the world) but also due to limited technical, organizational and financial capacity of the farmers in these parts of the world.    * Trader managed groups produce a very wide variety of organic products and crops world-wide and are in many products almost the only source of certified organic products from smallholder farms (vegetable oils, sugar, cotton, rice).    * It can be estimated that a bit less than the half of the currently certified organic producers are certified in trader-managed farmer groups; about 1-1.3 Mill organic producers   The wording of Article 36, could potentially be read in a way that only first-degree farmers cooperatives/associations could continue organic certification as a group of operators. This interpretation depends on the understanding of legal group entity and its “members”. A trader/processor with its marketing activities, has a very similar role as a cooperative (provides services, buys the products, requires farm members to comply with group rules for as long as they are members) and has always been considered a certifiable legal group entity with affiliated farmers being considered “group members”. The term “member” has been used in the current EU guidance and is used in IFOAM standards, as well the USDA guidance.  A limited reading of Art 36 that only organized groups (cooperative with only small farmers as members) are considered legal group entities with farmers as “members”, would potentially exclude more than one million organic farmers and thousands of well-managed trader–led organic smallholder producer group projects. As a potential consequence, a very significant part of organic volumes of various tropical and sub-tropical products could lose organic certification according to the new EU Regulation; individual certification of the affiliated smallholder farms in these regions would not be an option.  Such limited interpretation would potentially affect an even larger percentage of organic smallholder producers, many of which are organized in federations of cooperatives. “Federations of cooperatives” are not necessarily large in terms of number of members. For examples, some Federations of cooperatives represent only a total of 250-500 farmers whereby each cooperative counts only 10-25 farm members. This structure is also common in Europe, e.g. for Italian fruit and vegetable growers.  Also, it should be considered, that most established farmer cooperatives have organic, as well as non-organic farm members, and some of their constitutional farm members will be bigger than the size threshold defined in Art 36.1b. Hence, in almost all cases, the legal entity certified as a group (the cooperative) would not ONLY be composed of farm members that meet the size restrictions of Art. 36 (b).  If all certified organic trader´s group projects had to form “legal farmer group entities” for administrative purposes to meet EU certification requirements, while still running and financing the internal control system and controlling the product flow from the farms to sales, this would result in massive costs, administrative burdens and may lower the overall quality of management & control both of the ICS and of the external control. For cooperatives currently grouped in a federation, running an ICS and managing certification at individual cooperative level would be impossible in many cases, as the cooperatives would be too small to operate and finance a viable ICS. |

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| **IFOAM-Organics International Position** |
| IFOAM-Organics International strongly advocates that the EU Commission provides clarity on the reading of article 36 for it to include cooperatives, federations of cooperatives, and trader-led farmer groups. |

# Composition and Dimension of the Group

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| Relevant parts of Art 36:  **36.1** Each group of operators shall (b) ) only be composed of members who meet the size restrictions of (i) and (ii)  (e) only be composed of members whose production activities take place in geographical proximity to each other;  (f) set up a joint marketing system for the products produced by the group; and   (g) establish a system for internal controls (…)  Art 36.2. Competent authorities, or, where appropriate, control authorities or control bodies, shall withdraw the certificate referred to in Article 35 for the whole group where deficiencies in the set-up or functioning of the system for internal controls referred to in paragraph 1, in particular as regards failures to detect or address non-compliance by individual members of the group of operators, affect the integrity of organic and in-conversion products  Art 36.3: The Commission is empowered to adopt delegated acts by adding provisions (…) in regards to: (b) the criteria to determine the geographical proximity of the members of the group, such as the sharing of facilities or sites;  Art. 36.4: The Commission may adopt implementing acts laying down specific rules concerning:  (a) the composition and dimension of a group of operators; |
| **Background** |
| 1. **Size of members in the group of operators**   The size restrictions for members of a group of operators as indicated in Art 36.1b are more detailed than previous EU guidance or IFOAM Accreditation Requirements and have given raise to intense discussion of their applicability worldwide during the recent IFOAM-Organics International Group certification workshop.  It was understood during the workshop discussions that the member criteria listed in Art 36.1b in sections (i) “2% rule and organic turnover/output” and in section (ii) “farm size restriction” are either-or criteria. For example, a farm that is larger than 5 ha, but where the cost of individual certification would be higher than 2% of farm turnover and the annual turnover of organic production is lower than 25’000 Euro/yr, could still be member of a group of operators. This will probably allow for enough flexibility for world-wide application in different settings. It should be noted that the addition of the 2% rule, that total organic farm turnover should be under 25’000 Euro or total organic output under 15’000 Euro has not been tested for third country application so far .  What is, however, unclear, is the process for any farm group members that are slightly beyond this threshold. Almost all small producer groups also have some slightly bigger/medium size farms as their members to boost volumes, but also since they are often well managed organic farms that can serve as model farmers to others. So far, all organic regulations permitted such larger farm members, but required annual external inspection of such members. The rules and process for this were not very well defined, and practices vary between CBs. This was raised as a concern in the recent FiBL study too. Since the wording of Art 36.1 now states that the organic group of operators may ONLY be composed of members below the size threshold, clarification is needed on the inspection and certification regime that would apply to group members beyond that threshold, and how they may be integrated or not in the ICS.  Many organic groups of farms also have organic members that are larger than the maximum size allowed by the new Regulation for group certification. Some clear guidance is needed how such farms that are currently certified under the group (with annual external inspection) shall be certified in the future. Will they be required to undergo individual certification as a single operator farm and expected to maintain full related documentation, pay for their own certification costs, manage the organic product flow and marketing of their product on their own?  Many “medium farms” that are only slightly above the threshold, e.g. a farm that has for example an organic output of 20’000 Euro/ year in developing countries would still not be in the position to cover individual inspection and certification costs and may need the help and support of participating in and selling through an organic group. They need to be under the ICS, even if there is an annual external inspection. If all such farms would need to be certified as individual farms at the cost of the group, it would be a massive change from current group certification procedures and would result in increased costs for many groups. Such strict ruling, may also lead to artificial superficial changes on paper to meet size restrictions, e.g. by “splitting” the farm in two parts, one for the husband and one for the wife.   1. **Geographic Proximity and similar production system**  * “Geographical proximity of members” in a group has been a requirement for group certification in all organic Regulations and is also strongly embedded in the IFOAM accreditation requirements. * However, there are currently no examples for more detailed requirements regarding the geographical proximity and interpretation of this varies slightly among certification bodies. In practice, many producer groups have a clustered structure, whereby there may be clusters of farms in geographical proximity (same region) in different parts of the country, e.g. for different crops. Farmers are often very close to each other (e.g. several farms in the same village) and may know each other. But for some crops and regions it could also be that the organic farms are scattered over a wider region , especially if the certified organic crop is not a mainstream crop. * The USDA NSBO recommendations (2008) are quite specific regarding uniformity and proximity of farms: Practices of the producer group operation must be uniform and reflect a consistent process, using the same inputs/processes. Members within a ’production unit’ must share a common input supply and use a single post-harvest processing system. They must be located in geographic proximity and have similar farm characteristics (detailed definition on this). They produce similar products and varieties and share the same harvest schedule. * There have been some calls for clearer rules, however since the situation can be so different in different parts of the world and strongly depends on crop specifics too, the current open wording has not been found to be a major problem that needs to be addressed by more prescriptive guidance rules. Indeed, relative geographical proximity at least for clusters of farms is important for the group for operational reasons anyway, as ICS staff and transport costs are a significant cost factor of the ICS, so the group has a strong interest to work with closely clustered farms anyway, and in practice we do not observe very scattered groups.  1. **Dimension of the group**  * IFOAM Accreditation Requirements prescribe a “minimum size” of a group (8.3.2.1: big enough to support a viable internal control system). * There are no group size or dimension limits in most organic Regulations, except the Indian NPOP, which restricts the group size for any “ICS” to 500 farmers only. This can result in quite artificial structures, whereby organic farms in the same village or area that sell to the same exporter are certified in different “ICS” (all run by same exporter). * Other voluntary sustainability schemes don’t restrict group size .   + Increasing group sizes and the presence of very large certified groups with several ten thousands of producers have been identified in the FIBL study as a concern, which was also echoed in the recent IFOAM-Organics International expert survey.   + Very large groups with more than 5000 farms are found mainly in Africa, the largest examples confirmed (80’000 producers) are federations of cooperatives.   + The concern regarding very large group sizes (> 5000 farmers) is that the external re-inspection sampling rate based on the square root approach is proportionally very low (e.g. less than 1% in a group of 10’000 farms) and that such groups may be “too big to fail” in terms of effective sanctions: the incentive for certifiers to withdraw a certificate to a group of 80,000 farmers, and the market disruption that would result from de-certification are such that, in practice, such sanctions are very unlikely to be applied. Also the internal control system and outreach to farmers is unlikely to be equally effective in such very large groups.   + The issue of group size was discussed intensively during the recent IFOAM-Organics International Group certification workshop. IFOAM-Organics International considers a change of its requirements for group certification towards requiring large groups to have a clustered structure that ensures a close ICS supervision and that would allow for partial de-certification of the grower group by decertifying clearly defined clusters if the ICS would be failing only in one of these. Re-inspection rates are recommended to still be based on the square root approach, however adding a fixed minimum percentage for the re-inspection rate, guaranteeing that a reasonable proportion of farmers of the group is re-inspected, even in very large groups. This minimum percentage of re-inspection could for instance be based on the percentage equal to the square root number in a group of 5000 farmers, i.e. 1.4% of members for a normal risk factor category. This would help countering a possible incentive of lower certification costs by increasing group sizes. |
| **IFOAM-Organics International position** |
| **a) Size of members in the group of operators**  We recommend that the EU Commission clarifies that “medium farms” (e.g. above the current threshold mentioned in Article 36.1.b, but below twice those thresholds) could still be allowed as members of the ICS, provided that they be externally inspected every year. Farms above that second threshold, for example with a turnover of more than 50’000 Euro) should be required to have their own separate certificate, for transparency and accountability reasons.  **b) Geographical proximity and similar production of members** remains an important requirement for group certification and is firmly embedded in the IFOAM Accreditation Requirements (see 8.3.2.1“ Group shall be constituted of members with similar production system” and “group members shall be in geographic proximity.”  However since more prescriptive rules are currently not common (and tested) in any organic regulation nor applied by other voluntary sustainability labels, these requirements would be very hard to define with world-wide applicability. We therefore recommend to leave this requirement in its current general phrasing and not to develop more prescriptive rules at this stage.  **b) Group size / Dimension of the group:**  We are not clear whether the IFOAM-Organics International suggestion on clusters within a group certification can be implemented under the new regulation; article 36.2 states that sanctions should be applied to the entire group.  Therefore, we plea for lowering the incentives for building very large groups by introducing a “floor re-inspection rate” of at least 1,4% for the normal risk category. This we believe, is a better approach than to set a defined cap on the total size or dimension of the group, as a fixed cap would create other problems (artificial structures). |

# System for Internal Control Requirements

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| **Relevant parts of Art 36:**  1. Each group of operators shall……(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.  3. The Commission is empowered to adopt delegated acts (…) by adding provisions, or by amending those added provisions, in particular as regards:  (a) the responsibilities of the individual members of a group of operators;  (c) the set-up and functioning of the system for internal controls, including the scope, content and frequency of the controls to be carried out and the criteria to identify deficiencies in the set-up or functioning of the system for internal controls.  4. The Commission may adopt implementing acts laying down specific rules concerning:  (b) the documents and record-keeping systems, the system for internal traceability and the list of operators |
| **Background** |
| The recent FIBL ICS study confirmed that all existing ICS elements listed in the IFOAM Accreditation Requirements as the most complete list of requirements for the group were considered important or very important. Requirements for the ICS operated by the group should be relatively openly worded, to allow groups to develop a system that is adapted to their specific situation and well understood by ICS staff. The FiBL study and the IFOAM-Organics International group certification workshop both confirmed a need for updated guidance tools, templates, trainings and practical tools, including open source IT tools for managing group members compliance and advisory services to help organic groups in efficient ICS implementation. However, this need for more training & tools should not be confused with more prescriptive rules in organic standards.  The recent survey and workshop also confirmed the importance of producer training as an element of any ICS, and the need to allow the ICS (and even ICS inspectors) to not just control but also train and advise farmers. An ICS is an internal quality control system, and as such it is not necessary for an ICS to comply with the ISO norms that a third party certification body needs to adhere to. Instead, the ICS should be encouraged to focus as much as possible also on farmers training and support in addition to the control function. |
| **IFOAM-Organics International position** |
| The basic key requirements for an ICS are well expressed in the current IFOAM Accreditation Requirements in section 8.3.3. Every element of an internal control and management system indicated in this chapter is very important and has been found relevant for a functional and well working ICS. We therefore highly recommend to use these rules as a well agreed basis for setting new EU rules for an Internal Control System and IFOAM-Organics International would be happy to assist the commission if they required more information or clarity on any of the listed elements.  Additional to the existing rules, we strongly suggest that regular producer training in organic production should become a mandatory element of an ICS. In addition, we recommend stating clearly that provision of advice or training during internal inspections does not per se constitute a conflict of interest.  Our provisional position, to be formally confirmed through our internal participatory procedures, is to include the following requirements: “*Training shall be provided to producers on all relevant topics of organic production based on an annual training plan. Training may include field extension services, shall be carried out by competent personnel or experienced farmers and shall be recorded. Field officers may provide advisory services during the internal inspection - this does not per se constitute an unacceptable conflict of interest*.” |

# Group Inspection, Certification and Sanctions

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| **Art 35**  1. Competent authorities, or, where appropriate, control authorities or control bodies, shall provide a certificate to any operator or group of operators that has notified its activity in accordance with Article 34(1) and complies with this Regulation. The certificate shall:  (b) allow at least the identification of the operator or group of operators including the list of the members, the category of products covered by the certificate and its period of validity;  4. An operator or a group of operators shall not be entitled to obtain a certificate from more than one control body in relation to activities carried out in the same Member State regarding the same category of products, including cases in which that operator or group of operators operates at different stages of production, preparation and distribution.  5. Members of a group of operators shall not be entitled to obtain an individual certificate for any of the activities covered by the certification of the group of operators to which they belong.  **Art. 38.**  1. Official controls performed in accordance with Article 9 of Regulation (EU) 2017/625 for the verification of compliance with this Regulation shall include, in particular:  (d) the verification of the set-up and functioning of the internal control system of groups of operators;  3. (frequency of physical inspection)  4. Official controls performed in accordance with Article 9 of Regulation (EU) 2017/625 for the verification of compliance with this Regulation shall:  (d) ensure that a minimum number of operators that are members of a group of operators are controlled in connection with the verification of compliance referred to in paragraph 3 of this Article  9. The Commission may adopt implementing acts to specify:  (d) the minimum number of operators that are members of a group of operators referred to in point (d) of paragraph 4.  **Art 42:**  1. In the event of non-compliance affecting the integrity of organic or in-conversion products throughout any of the stages of production, preparation and distribution, for example as result of the use of non-authorised products, substances or techniques, or commingling with non-organic products, competent authorities, and, where appropriate, control authorities and control bodies, shall ensure, in addition to the measures to be taken in accordance with Article 138 of Regulation (EU) 2017/625, that no reference is made to organic production in the labelling and advertising of the entire lot or production run concerned.  2. In the event of serious, or repetitive or continued non-compliance, competent authorities, and, where appropriate, control authorities and control bodies, shall ensure that the operators or the groups of operators concerned, in addition to the measures laid down in paragraph 1 and any appropriate measures taken in particular in accordance with Article 138 of Regulation (EU) 2017/625, are prohibited from marketing products which refer to organic production for a given period, and that their certificate referred to in Article 35 be suspended or withdrawn, as appropriate. |
| **Background** |
| **Group inspection procedures and protocol**:  Certification bodies need to have specific standard operating procedures / inspection protocols and sanction policies how they inspect groups of operators, as the process differs in many aspects from the control of a single farm. Some basic requirements for the control process have been defined in the previous EU Guidance document, but there is no harmonized group inspection protocol nor group sanction policy guidance, except requirements about the minimum number and selection of farms to be re-inspected by the external control body. Risk categorization for determining the risk category (and hence the applicable minimum number of re-inspections), duration and elements of the group inspection process can vary greatly between certifiers. IFOAM-Organics International has well established requirements for the group inspection defined in chapter 8.3.4, which provide a common basis for group inspections of IFOAM accredited certification bodies.  **Sampling farm re-inspection to verify efficiency of an ICS:**  Current minimum rules in the EU Guidance Document are basically the same as required by the IFOAM Accreditation Requirements: the square root of the total number of farms needs to be re-inspected. In case of medium or high risk, a risk factor of 1,2 and 1.4 times the square root applies.  USDA does not set a defined minimum rate, but has indicated that all new group members should be re-inspected during the external inspection. Since this is different to all other organic regulations and not set formally or prominently as part of the USDA NOP, this rule is not necessarily implemented consistently worldwide and has led to strong call for harmonization of rules as 100% re-inspection of new group members is not considered meaningful.  **Certificate and group certification as a specific scope**  A small number of international certification bodies certifies the majority of organic groups, but many different certification bodies certify at least some groups of operators as part of their portfolio. Under the IFOAM Accreditation system, group certification is a separate scope that a CB needs to be approved for. Specific group control and sanction procedures and staff competencies for group audits need to be demonstrated for the approval.  The EU Regulation so far does not differentiate between single farm certification and groups of farms, hence national accreditation bodies have not verified whether CBs performing group certifications do in fact have adapted specialized procedures and qualified staff for inspections of groups of operators. Currently, any CB approved for farm inspections is automatically permitted to perform group certification as well.  Certificates of groups currently do not publish the list of group members (as part of the public operator certificate). The certificate does not commonly indicate that it is a certificate for a group of farms either, and usually it does not even list the number of farms certified under the respective certificate. This lack of transparency, and confusing situation for compiling statistics on the scale of organic group certification, has been raised as a serious concern in the recent FiBL ICS Study.  During the last COP meeting (June 2019) the Commission proposed to keep a mandatory system for certificates with three categories of activities: 1) Production, 2) Preparation and 3) Placing on the market. In addition, an optional system with sub-activities as follows:  1. Production: i) agriculture, ii) aquaculture, iii) beekeeping and iv) other products listed in Annex I.  2. Preparation: i) processing, ii) preservation, iii) Other operations not altering the unprocessed products, iv) packaging and v) labelling.  3. Placing on the market: i) trading, ii) point of sale, iii) transport, iv) storing, v) import and vi) export.  This proposal does however not foresee a separate category for group of operators. However, for the reasons outlined it may still be important to distinguish production in single operations and “groups of operators”, for transparency as well as for oversight purposes.  **Sanctions and harmonized catalogue of measures**:  The IFOAM Accreditation Requirements define in section 8.3.5 that “Failure of the internal Control system to detect and act on non-compliances shall invoke sanctions on the group as a whole.” Certification should not be granted or should be revoked in case of ineffectiveness/systematic failure of the ICS” and the same basic rule applies in all organic Regulations and voluntary standards.  However, in practice it has been found by IFOAM-Organics International and in the recent FiBL Study that the evaluation what constitutes a “systemic failure of the ICS” and how non-compliances or weak ICS are dealt with vary greatly between CBs, and many certifiers are reluctant to sanction the entire group, if they just find a few farms in which the ICS did not detect critical non-compliances.  So far, there are no established thresholds or numbers on what number of undetected non-compliances constitutes a systemic failure of the internal control system – which also depends on group size and number of re-inspected farms. It is clear that the investigation of the cause and exact nature of such undetected non-compliances (i.e. failure of the ICS) is critical, and that any sanction approach need to also acknowledge that no control system, even the best, is 100.0% error-proof.  We are not aware of an organic standard that does set a threshold for systemic failure, but there is one well defined sanction procedure example found the Marine Stewardship Council (MSC) Group certification standard for Chain of Custody (CoC) Requirements which has been also suggested in the ISEAL Assurance Code V1.0 as a good example of a clear sanction policy for groups. It is adapted from ISO 2859.  MSC CoC Certification requirements: 9.4.3 The CAB shall determine whether the number of sites with major non-conformities exceeds the limit in Table 12, and if so raise a group critical non-conformity  **Table 12: Reject number of sites – Group CoC**   |  |  | | --- | --- | | **Number of sites sampled by the CAB** | **Reject number (number of sites with at least 1 major non-conformity detected during audit)** | | 1 – 3 | 2 | | 4-10 | 3 | | 11-15 | 4 | | 16-20 | 5 | | 21-25 | 6 | | 26-30 | 7 | | 31-40 | 8 | | 41-50 | 10 | | 51-60 | 12 | | 61-70 | 14 | | 71-80 | 16 | | 80+ | 19 |   This approach has not been tested per se for organic certification, but a similar table has been used with slight modifications as the basis for an adapted internal guidance for sanctions by at least one leading group certification body and found to be useful and better than a % of inspected farms. It should be noted that the minimum sample for organic inspections is 10 members; so only the higher sample sizes would apply.  In discussion of this matter during the recent IFOAM-Organics International survey and workshop the agreement was that there has not been enough harmonisation and technical exchange between certifiers on group sanctions yet to pre-set a defined threshold for what constitutes “systemic ICS failure”. It was stressed by all experts that evaluation of non-compliances found during farm re-inspections is very complex and requires a careful analysis of the circumstances and nature of the problems found to determine an adequate sanction. Several experts also stressed that any thresholds set should not be too low, as this would only backfire on those CBs that are efficient at identifying non-conformities; a low threshold would not have any impact on weak ICS inspections as such.  However, it was also agreed that more harmonisation is needed, whereby the EU Commission could produce or support the development of harmonized guidance thresholds and procedures for guiding certifiers on the application of sanctions. This could include a system of alert levels, e.g. . “orange alert - compulsory additional investigation & analysis” and “red alert – systemic failure of the ICS / suspension of certification until problem corrected”.  In this context, it is also important to note Art. 42 in the new Regulation, which deals with general measures to be taken in case of non-compliances (not specific to groups). This article, as well as IFOAM Accreditation Requirements (7.9.4), already foresee a similar level of caution whenever there is a suspicion that the organic integrity of the product is threatened. In current implementation, this has meant that any commingled products or products from farms that were found to be non-compliant during the external audit, have been de-certified with immediate effect after a group audit, but it has not been practice to suspend certification immediately during ongoing investigations in case of a weak ICS. It was a case to case decision by the CB whether and when a group’s certification was suspended or not.  Clarification is needed on the role of the new EU harmonized catalogue of sanctions that is currently being finalized by the Commission. This catalogue does not yet consider groups of operators and hence group sanctions. It is also not clear to what extent the planned harmonized sanction measures (harmonized across EU member states) should also be applied to smallholder farmers in third countries, who are part of a group. |
| **IFOAM-Organics International Position** |
| **a) Group Inspection Protocol & Certificates**  IFOAM-Organics International suggests that the EU sets group control procedures that cover at least all requirements currently included in IFOAM Accreditation Requirements in Chapter 8.3.4. Indeed, some more harmonization between inspection practices for groups is clearly needed as a harmonized bottom line.  IFOAM-Organics International also wishes to encourage a wider harmonization process between leading CBs to agree on more operational details, share challenges and possibly the development of a shared common minimum protocol for group inspections, developed voluntarily between the leading certifiers of groups. This could be organized in a project context, whose output could potentially be taken as a guidance by the EU Commission.  IFOAM-Organics International considers it essential that group certification becomes a separate scope of accreditation, that requires certifiers to have specific procedures and policies as well as qualified staff in order to be approved to certify groups of operators. It should also be visible on the planned standard certificates.  **b) Number of re-inspections**  The current square root approach for re-inspection is a viable and well tested way of working, which is by now rooted and functional in most organic regulations and similar to the approach of relevant voluntary sustainability standards. IFOAM-Organics International strongly suggests to continue applying the same approach, and add an additional minimum floor, that the external inspection rate may never be below a certain proportion e.g. 1.4% of members which sets a minimum control rate and therewith disincentivizes setting up large groups only to reduce certification costs.   1. **Sanctions**   More clarity and a practicable realistic approach is also needed regarding if and to what extent a future harmonized catalogue of sanctions and the rules of article 42 would apply for certification of international smallholder groups world-wide.  IFOAM-Organics International believes that more harmonization is needed between leading group certifiers on sanctions. We advocate that the development of harmonized guidance thresholds and procedures for guiding certifiers on the application of sanctions should be done with intensive consultations of certifiers, experts and other stakeholders, possibly through a project framework. The output of such process could then be taken up as official guidance by the EU Commission. |

1. Include a reference here [↑](#footnote-ref-1)