

Regulatory changes for organic small farmers in Developing Countries

Updated Briefing

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IFOAM - Organics International and IFOAM Organics Europe prepared this short briefing to inform governments, policymakers and organic producers in developing countries about coming significant regulatory changes. Those changes might affect particularly small farmers who produce organic products to be marketed in the European Union.

New Organic [Regulation \(EU\) 2018/848](#) will enter into application on 1 January 2021 both for EU and non-EU producers. Rules on group certification will change and might significantly impact the existing groups of small farmers in developing countries.

The most impacting changes are: 1) the need to form a new legal personality for each group consisting only of small organic farmers, 2) a new limit on the number of small farmers allowed in each group (today there is no size limit) as well as 3) higher external control rates and residue sampling requirements.

It is still possible to influence the EU legal process if action is taken immediately. Public consultations on 3 draft legal acts are currently ongoing, with deadline 26 August 2020 (1 2 3).

New organic Regulation (EU) 2018/848 will apply from 2021 onwards and will include a new set of rules for group certification. Transitional rules to adapt to the new requirements will be up to 3 years.

Some of the requirements for group certification are already set in Article 36 of the Basic Act of the new EU Organic Regulation and cannot be changed. Other requirements are to be set in implementing and delegated regulations (secondary legislation) which are now in public consultation.

Before highlighting the relevant changes, it is important to explain that the existing groups of operators in developing countries can be categorized into two types of organizations:

- **Organized farmer groups** - e.g. cooperatives, farmers associations, federations of cooperatives.

In this type of organizations, the cooperative or association is the certified legal personality which operates the Internal Control System. Most cooperatives and associations have both organic and non-organic members. Organized farmer groups are predominant in Latin America, where they tend to be rather small (< 250 members).

There are also cooperatives in Africa and Asia with a very large number of very small farmers. The most important crops commonly grown in organized groups are coffee and cocoa. It can be estimated that slightly more than half of all organic farmers under group certification are in organized farmers groups, but only a quite limited range of organic products and origins.

- **Processor/Exporter managed group** – Processor or Exporter with affiliated farms

A processor or exporter sets up and manages a group of affiliated farms by signing contracts with local small farms to produce and supply organic crops. The processor/exporter trains the farmers in organic production and operates the Internal Control System. The processor/exporter company with its affiliated farm group is the legal personality listed on the organic certificate. The affiliated farmers are considered “members” of the group, as they are under its management system.

This type of “processor/exporter managed group” is very common and an acceptable form of group personality according to current EU and US regulations. Processor/Exporter-managed groups are prevalent in many parts of Asia as well as in Africa, but they also exist in Latin America and produce a very wide variety of organic products and crops.

There is no indication that control systems in such groups are weaker than in organized groups. Many important organic products are almost entirely sourced from Processor/Exporter managed producer groups (vegetable oils, sugar, cotton, rice).

Expected Changes in the New EU Organic Regulation

One of the novelties in the new EU Organic Regulation is that group certification will be allowed worldwide, including the EU, while today is only allowed in developing third countries.

Besides that, the following expected changes of the new EU Organic Regulation are in particular to be highlighted, as they are significantly different from currently implemented rules worldwide:

- **Each “group of operators” (of max 2000 farmers) will need to have its own legal personality.** This rule could also have serious implications for cooperatives which have organic and non-organic members, where the organic members will have to form a new legal personality, separated by the cooperative.
- **A limit on the number of farmers allowed in each group is being established.** The current draft text sets such limit at 2000 members per group. It means that every group exceeding this limit needs to be split in two or more groups.
- **Only small organic farmers fitting in certain new-established size and financial criteria can be part of the legal “group of operators”.** This will have two consequences:
 1. small farmers that today are coordinated by an exporter or processor need to get organized into one or several separate legal entities (of max 2000 farmers each)
 2. farmers who currently are part of a group but who exceed the new established size and financial criteria need to exit the group and be individually certified.
- **As a new rule, a minimum 5% of the farmers who are part of a group need to be inspected** by the Certification Body (instead of a risk-based square root approach).
- **There is the new requirement that the Certification Body also needs to sample and analyse products/soil/leaves from 2% of the farmers who are part of a group.**

IFOAM - Organics International and IFOAM Organics Europe are aware that improvements in certain areas are needed in the management of group of operators. Nevertheless, the changes currently proposed risk to create unnecessary burdens to cooperatives, federations of cooperatives as well as processors and traders who have set up well working organic sourcing programmes with small farmers.

Part of the proposed changes will not contribute to address many of the existing main concerns about the quality of group certification. On the contrary, there is the risk that the system will be weakened because groups would need to spend their scarce resources on expensive legal registrations, administration processes and increased certification costs instead of focusing on farmers training and support.

IFOAM Proposals

IFOAM – Organics International and IFOAM Organics Europe have already circulated an input in November 2019 with possible proposals from the sector. In particular it is important to stress again the following ones:

- IFOAM strongly advocates that cooperatives, federations of cooperatives, and processors/exporters with affiliated farms **continue to be recognised as certifiable legal group entities**. A certified legal group personality, e.g. a cooperative, should be permitted to create a sub-group of its registered members qualifying for organic group certification without the need to form a new separate legal personality only for the organic members.
- **IFOAM recommends deleting the new requirement which requires the residue sampling for 2% of the members of the group**. It would significantly increase the cost of the management of the group. In a group of 2000, it would mean to collect and make lab analysis of samples from 40 members every year. Every lab analysis has a minimum cost of 250 euro (often higher).
- **IFOAM does not recommend linking a maximum group size limit to a single legal personality**. Instead it is suggested to require large groups to have a clustered structure that ensures a close supervision of the internal control system (ICS). This would allow for partial de-certification of the group by decertifying defined ICS clusters if the ICS would be found to be failing only in one of these. Our proposal to combine the square root external re-inspection rate with a minimum percentage (see next point), also addresses this issue, by making sure that there is no economic incentive to go for very large groups, from a certification cost point of view. If a size limit is established, **the limit should be for the purpose of certification only**. It should be possible that different cluster groups of 2000 farmers use the same Internal Management and Control System, and that they are all under the same legal personality.
- As for external controls from certification bodies, **IFOAM recommends continuing the square root approach**, and additionally setting a minimum control rate of 3-5%. A minimum of 3% would result in higher control rates only for normal risk groups of more than 1200 members. The currently proposed 5 % would mean that all normal risk groups with more than 400 members (the vast majority of existing groups) will require a higher number of inspections compared to today. The harmonization of the quality and thoroughness of the external farm inspections of group members by the certification body remains a key challenge and efforts will be needed to ensure it, especially if the total number of inspections increases.

Final note on the USDA process on Growers Groups

This briefing focuses on the new EU Organic Regulation, but please note that the USDA-NOP has also put in public consultation until 5 October 2020 [new draft rules](#) to strengthen oversight and enforcement, which also include new requirements for grower groups. The US draft texts under consultation do not require any size limit for the groups, any size or financial criteria for members to be part of the group (and also handlers can be part of the group), any obligation to have a legal personality per each group, any minimum percentage for sampling and analysis.

This is important to know for groups that are certified according to both the EU and the US organic standards.

