

**Update on the New EU  
Organic Regulation and  
Associated Implementing &  
Delegated Acts**

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**COLEACP**



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## BACKGROUND AND PROCESS

In 2007, the European Union (EU) introduced Regulation (EC) 834/2007 setting out the principles, aims and overarching rules of organic production, and defining how organic products should be labelled. This Regulation, in force until 31 December 2021, is complemented by several Commission implementing acts on the production, distribution and marketing of organic goods.

After several years of intense negotiations, on 28 June 2017, the European Parliament and the Council reached agreement to overhaul these existing EU rules. The new regulation (Regulation (EU) 2018/848) was constructed with the stated aims of encouraging the sustainable development of organic production in the EU, guaranteeing fair competition for farmers and operators, preventing fraud and unfair practices, and improving consumer confidence in organic products.

An overhaul of the EU organic rules was considered justified for several reasons. Firstly, many of the existing provisions were over 20 years old and no longer fit for purpose given the major changes that have taken place in organic production and trade. The “patchwork of rules and derogations in place (did) not give sufficient certainty and security to this highly important sector of European agriculture”<sup>1</sup>. A lack of clarity in the rules was leading to a growing number of requests for legal interpretation of certain provisions, as well as inconsistencies in the application of the rules between Member States. There was also an increasing risk of formal complaints on the grounds of unfair competition. Finally, the current regulation was deemed not to be aligned with the Lisbon treaty.

The first draft of the new regulation was introduced by the European Commission (EC) in 2014, but was not finally published in the Official Journal until 2018. This long process reflects the often contentious negotiations and the wide range of opinions and positions within European institutions, Member States, and the organic sector. The EU has aimed to achieve a balance between meeting the fundamental principles of organic production, and the need to maintain flexibility for operators. However, there were (and remain) several issues on which it has been difficult to find a compromise acceptable to all parties.

The original date of application was 1<sup>st</sup> January 2021. For a number of reasons, not least the COVID pandemic, the introduction of the secondary legislation has been delayed and the date of application was postponed to 1<sup>st</sup> January 2022. At the time of writing, 18 items of secondary legislation (delegated and implementing acts) have been published; a further 8 are in the process of being adopted.

The EC recognises that there may be challenges for operators as they adapt to the new rules. A number of tools are proposed to facilitate the reading of the legislation, including a summary table and enhanced versions of the basic and delegated acts on the EC website. A FAQ, and a question and answer system, are also planned. These are not yet published, but will be shared by the EC in the coming weeks with stakeholders and Member States.

## POLICY CONTEXT & OVERALL APPROACH: FROM EQUIVALENCE TO CONFORMITY

The overhaul of the EU organic regulation accompanies major new policy initiatives under the European Green Deal<sup>2</sup>, Farm to Fork Strategy<sup>3</sup>, and EU Action Plan For The Development Of Organic Production, with their ambition to reach a target of at least 25% of the EU’s agricultural land under organic farming by 2030<sup>4</sup>.

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<sup>1</sup> [europa.eu/rapid/press-release\\_MEMO-17-4686\\_en.htm](https://european-council.europa.eu/media/e3000424/1/162017en12en12.pdf)

<sup>2</sup> [https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en)

<sup>3</sup> [https://ec.europa.eu/food/sites/food/files/safety/docs/f2f\\_action-plan\\_2020\\_strategy-info\\_en.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/f2f_action-plan_2020_strategy-info_en.pdf)

<sup>4</sup> [https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/organic-action-plan\\_en](https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/organic-action-plan_en)



An organic action plan for Europe is being established, operating around 3 main areas:

- Axis 1: Stimulating demand and ensuring consumer trust
- Axis 2: Stimulating conversion and strengthening the value chain
- Axis 3: Improving the wider contribution of organic farming to sustainability

While the focus of the new regulation is the EU organic sector, it also has significant implications for third countries. Many rules have been clarified, removing inconsistencies and ambiguities, but also adjusted to align third countries with EU organic practices. EU operators argued that the current regulations often favour third country suppliers.

To “level the playing field”, a fundamental change was made to the regulatory approach; it has moved from the principle of equivalence to the principle of conformity.

The current Regulation 834/2007 recognises that organic goods may be produced in ways that are different, but are accepted to be equivalent in terms of their outcome and alignment with organic principles. Organic goods imported into the EU can therefore be certified either against a national organic standard that is equivalent (recognised as having organic rules that are equivalent to those in the EU), or they can be certified according to rules from control bodies that the EU has recognised as equivalent.

Under the new Regulation 2018/848, this changes. Producers in third countries will have to conform with exactly the same set of rules as those in the EU, and there will be no recognition of “equivalence”. This, it is argued, will create a fairer situation for all producers, as everyone will have to comply with the same high standards. It is also designed to assure consumers that all organic products sold in the EU meet the same standards.

## ORGANIC REFORM – TRADE RULES

As noted above, under Regulation 834/2007, there are two options for recognition and trade in organic produce. The first is the equivalence agreements, whereby an administrative arrangement is made between the EU and a third country involving mutual recognition of equivalence in their organic standards. The following are currently recognised as “equivalent countries”<sup>5</sup>: Argentina, Australia, Canada, Chile, Costa Rica, India, Israel, Japan, Republic of Korea, Switzerland, Tunisia, the United States and New Zealand. In these countries, inspection and certification of organic exports are carried out by the national competent authorities.

In almost all other countries, inspection and certification are the responsibility of “control bodies”; independent entities appointed by the EC<sup>6</sup> to verify that organic producers in their area of responsibility follow standards and control measures equivalent to those in the EU. Each of these has an organic standard that is recognised and authorised as being equivalent and in line with organic principles. There are currently around 60 recognised control bodies around the world, each operating equivalent standards. They may vary in content, as the current system provides some flexibility for these standards to be adapted to local circumstances. EU operators objected to this approach, claiming that it gave an unfair advantage to producers in third countries.

This will change under the new EU Organic Regulation 2018/848. There will still be two possible systems for importing organic products from outside the EU, but they will no longer be based on equivalence:

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<sup>5</sup> [https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/trade\\_en](https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/trade_en)

<sup>6</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02008R1235-20190409#id-d895d0fa-c01d-402d-a57d-4aea854e77a5>



- Trade agreements. All third countries currently recognised as equivalent will have to renegotiate the terms as bilateral trade agreements.
- Control bodies. In the absence of a trade agreement, the EC will establish a list of recognised EU and non-EU control bodies/authorities that will be authorised to carry out inspections and certifications in third countries.

Secondary legislation is being introduced with the details on how the new trade rules will operate, the procedures by which trade agreements are negotiated, and how control bodies are authorised (see Annex 1, Part 4: “Trade Rules” for links to the relevant delegated and implementing regulations).

#### Transitional Periods.

- The existing **recognition of equivalent countries will expire on 31 December 2026** (5 years after application of the new Regulation).
- The existing **recognition of equivalent control bodies will expire 31 December 2024** (up to a maximum of 3 years after application of the new Regulation). Control bodies/control authorities can apply for accreditation against the new regulation at any time before this date.

Delegated Regulation (EU) 2021/1342<sup>7</sup> explains the procedure in place during the transitional period for control bodies/control authorities. From 1<sup>st</sup> January 2022 **until the expiry of the (current) recognition of control authorities and control bodies, organic products imported into the EU have to be produced in accordance with the current production rules and control arrangements** (Regulations (EC) 834/2007, (EC) 889/2008 and (EC) 1235/2008).

In other words, individual control authorities/bodies will continue to audit according to the current equivalence rules until they are officially accredited (recognised) under the new regulation. They could apply for accreditation at any stage between 1<sup>st</sup> January 2022 and 31 December 2024. **It is therefore critical for organic operators to liaise closely with their control body in order to know when they will be audited against the new organic rules.**

Impact on ACP countries. Low and middle income countries have concerns about how the new rules may affect them. In the case of trade agreements, the negotiations and details in the agreements may not be in the public domain. It will therefore be difficult to compare them openly and transparently against the EU regulations or organic principles, or to ensure a level playing field between countries with and without bilateral trade agreements. In the case of control bodies, the loss of the equivalence provision also limits the possibility of adapting certification to locally specific conditions and organic practices.

## **ORGANIC REFORM - BORDER PROCEDURES**

Under the new Organic Regulation, changes to border control procedures are under development (see Annex, Point 5). Important to note is the change of EU Point of Entry of certain produce. Organic produce that requires a phytosanitary certificate will have to pass through Border Control Points (as opposed to Border Control Posts), with stricter controls and a limited number of EU ports of entry<sup>8</sup>. The highest volume crops (banana and pineapple) are exempt, as they do not require a phyto certificate. However, there are concerns about the potential impact on produce subject to SPS checks; the volume of perishable organic produce passing through a small number of border control points, and increased time needed for border checks, could lead to delays and impact on quality.

<sup>7</sup> [EUR-Lex - 32021R1342 - EN - EUR-Lex \(europa.eu\)](#)

<sup>8</sup> According to Article 1, Point 1 (a) ii of [Regulation \(EU\) 2019/2123 \(supplementing Reg \(EU\) 2017/625\) regarding rules under which identity checks and physical checks on certain goods may be performed at control points, and documentary checks may be performed at distance from border control posts](#)



All organic products imported into the EU must have an electronic certificate of inspection (e-COI) that is administered through the Trade Control and Expert System (TRACES-NT). Information is provided by the EU on how to create a new COI<sup>9</sup> on TRACES-NT.

Under Regulation (EU) 2020/479, from January 2020, the COI must be issued by the relevant control authority or control body before a consignment leaves the country of export/origin. Problems with the early implementation of this requirement led to an amendment being made, which allows some information (Box 18) to be added to the COI after it leaves the country of origin as long as this is within 10 days following issuance of the certificate, and before the certificate is endorsed by the EU authorities at point of import<sup>10</sup>.

Draft legislation is in the process of adoption<sup>11</sup> laying down new rules for the official controls of organic products covering:

- Issuance of the COI, format of the COI, and use of TRACES
- Official controls on consignments, and special customs procedures
- Contingency arrangements for TRACES in case of unavailability or force majeure
- Use of the COI and its extracts by customs authorities
- Information to be provided by a competent authority, control authority or control body in a third country in the case of suspected or established non-compliances

This legislation also provides transitional arrangements to use hand-signed COIs; this recognises that the technology to issue the COI in third countries using a qualified electronic seal in TRACES (and to endorse it in EU Member States) might not be available before July 2022.

A second draft implementing regulation<sup>12</sup> is in the process of adoption with rules on the documents and notifications required for importing organic and in-conversion products into the EU. It aims to ensure enhanced traceability with additional rules for:

- Prior-notification before arrival (via TRACES) within the minimum time laid down in line Commission Implementing Regulation 2019/1013 ( 1 working day before arrival)
- COI: amended provisions for box 20, 21, 23, including the obligation to report the number of the COI in the Customs Declaration for Release
- COI and split consignments: Where a consignment is split into different batches under customs supervision, the importer must complete and submit an extract of the COI for each batch reported, and include the COI number in the Customs Declaration for Release
- Transitional rules for handling paper certificates of inspections

ACP-EU organic value chains will need to monitor and adapt to these changes in the official controls. Operators are already experiencing delays due to ongoing challenges with the COI, and these may be exacerbated by new border control procedures. The lack of post-harvest treatments for organic produce means that it generally deteriorates more quickly than conventionally produced fruit and vegetables, so that even relatively short delays can have a big impact on quality.

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<sup>9</sup> [https://webgate.ec.europa.eu/cfcas3/tracesnt-webhelp/Content/E\\_COI/I.%20How%20to%20create%20a%20new%20COI%20.htm](https://webgate.ec.europa.eu/cfcas3/tracesnt-webhelp/Content/E_COI/I.%20How%20to%20create%20a%20new%20COI%20.htm)

<sup>10</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R0479> Commission Implementing Regulation (EU) 2020/479 of 1 April 2020 amending Regulation (EC) No 1235/2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries

<sup>11</sup> [Commission Delegated Regulation \(EU\) .../...](#) of 21.10.2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the official controls in respect of consignments of organic products and in-conversion products intended for import into the Union and on the certificate of inspection (**in the adoption process**)

<sup>12</sup> [Commission Implementing Regulation \(EU\) .../...](#) of XXX to lay down the rules for operators established in the EU and the notification of non-compliance by Member States as regards the consignments intended for import into the Union (**in the adoption process**)



## ORGANIC REFORM – CONTROL RULES

The control rules are laid out in Article 38 of the new Organic Regulation (EU) 2018/848. Details on inspection and certification requirements are described in Paragraph 3. All operators and groups of operators (with some exceptions) must be subject to an audit, including a physical on-the-spot inspection, at least once a year. However, the audits may be less frequent (to a maximum of 24 months) if the operator or group has been assessed as low risk of non-compliance, and previous inspections have revealed no non-compliances in the last three consecutive years.

Annex 1 (Point 3) of this document lists the delegated and implementing acts on certification and controls. These include: checks on production and operator groups; controls and other measures on traceability and compliance; and certification/certificate details.

Under the new organic rules, control authorities and bodies operating outside of the EU will have to be recognised by the European Commission in order to be able to certify operators that are exporting to the EU. Delegated Regulations (EU) 2021/1697 and (EU) 2021/1698 set out:

- The requirements that control authorities and bodies must meet in order to be recognised under the EU new regulation
- How they should conduct controls on operators under their supervision
- The exercise of supervision by the Commission.

### Farmer Groups and Sampling

Of most concern are the new rules on farmer groups and sampling procedures. The provisions for group certification have been very important in terms of enabling small-scale farmers in developing countries to become organic certified and access the EU market, but the new rules are likely to have a significant impact.

At the present time, only operators in developing countries can be group certified, and there are two types of farmer group organisation in operation:

- Organised farmer groups. These include cooperatives, farmer associations, and federations of cooperatives. The cooperative or association acts as the legal entity for the purposes of organic certification.
- Processor/trader managed groups. An exporter, processor or trader sets up and manages a group of affiliated farms, and is the legal entity.

In response to concerns in the EU about the quality of group certification, particularly in the case of very large producer groups, major changes have been made in the new EU regulation. The most significant rules are as follows (*Article 36 of Regulation (EU) 2018/848*):

1. Certification of farmer groups will no longer be restricted to developing countries, but can take place in any third country or within the EU
2. Group members must be farmers (though they may also be engaged in processing, preparing or marketing food or feed). Cooperatives, federations of cooperatives, and processors/exporters with affiliated farms will no longer be accepted as certifiable legal group entities (*Article 36 (Point 1) of Regulation (EU) 2018/848*)
3. Maximum size of a group will be 2,000 members (*Article 4 of Regulation (EU) 2021/279*)
4. There will be strict limits to the scale of operation of group members. Each holding must be 5 ha or less (0.5 ha for greenhouses). Alternatively, individual certification cost of each member must be more than 2% of their turnover or standard output from organic production **AND** they must have a turnover of organic production of no more than €25,000 **OR** their standard output from organic production must be no more than €15,000 per year
5. The farmer group must have its own legal entity



6. Each group must operate a joint marketing system
7. All farmers within the group must be operating in the same geographical location
8. Each group must implement its own Internal Control System, with a nominated person or body who is responsible for ensuring that all members of the group are in compliance

Changes have also been introduced concerning the level of controls and sampling that will be done under third party inspections of farmer groups (*Article 7 (e) of Regulation (EU) 2021/279*). These require that for every group, a minimum of 5% of its members (and not less than 10 members) must be subject to a third-party inspection every year. Where a group has 10 members or fewer, all members must be inspected every year. Produce sampling and laboratory analysis must be applied to 2% of the total number of members.

There are some new requirements for the organic certificate. For example, a list of members must be included in the certificate.

### Impact in ACP Countries

These changes to group structure and operations will affect many operators in third countries, and will create additional technical, administrative, and cost burdens that are particularly challenging for small-scale growers.

Groups with more than 2000 members will have to split into two or more groups. Farmers that do not meet the criteria because they exceed the farm size or financial limits will have to leave a group and be individually certified.

Many small-scale organic fruit and vegetable growers in ACP countries currently operate in groups run by processors/traders (and benefit from their administrative and technical support). These will also have to separate and run their own independent groups.

Whenever new groups are established, they must create and register as a separate legal entity. The legislation does not stipulate what a legal personality means, recognising that this will vary according to the regulations in force in each third country.

New groups must also put in place and implement their own Internal Control System (ICS), and nominate a person or body who will be responsible for ensuring compliance. Note that for groups that reorganise because they were trader-managed, while the trader cannot be a member of the group (unless they are also a producer and fit the scale restrictions), they can be nominated as responsible for overseeing the ICS.

Groups of over 400 will face an increase in certification costs due to the new rules on external controls (inspections). The minimum 5% inspection rate will mean, for a group of 2000 members, an increase from 45 to 100 external inspections each year. A produce sampling rate of 2% for a group of 2000 will mean 40 samples, with associated costs.

### Transitional Period

The EC recognises that there will be significant “administrative, legal and structural changes ... with regard to the maximum size of the group”, so there will be a transition period for operators to adapt to the new requirements. For groups that are already certified on 1<sup>st</sup> January 2022, they will have 3 years to comply with the changes to group size (*Article 10 of Regulation (EU) 2021/279*). This means that they must have their own legal entity and internal control system by 1<sup>st</sup> January 2025.

There is no specific reference to transitional provisions for the processor/trader groups that must reorganise. However, as noted earlier, individual control authorities/bodies will continue to audit according to the current equivalence rules until they are officially accredited (recognised) under the





new regulation<sup>13</sup>. The new farmer groups must therefore be legally formed and operational by the time their control body (responsible for their certification) is officially recognised by the EU. As long as the control body continues to operate under the equivalence system (as today), then the group can continue to operate as a processor/trader group. The transitional period for control bodies to make this change is until December 2024; this means that groups will have from between 0-3 years to reorganise, depending on the control body that certifies them.

Planning for this major change is difficult when the timescale is uncertain, so producers currently operating within cooperatives or trader-managed groups need to find out how long they have to make the change. Operators must talk to their control bodies to find out when they plan to change from the current equivalence system, and become officially recognised by the EU under the new system.

An important message to all operators and farmer groups is that they will need to take full advantage of any transition period. In some countries, creating a new legal entity can be a time consuming and expensive process. Many groups will also need technical assistance and training to establish and implement an Internal Control System and this, again, will take time. All operators and groups affected should start to make the changes, and seek any necessary support, as soon as possible

## ORGANIC REFORM - PRODUCTION RULES

Chapter III of Regulation (EU) 2018/848 lays down the general production rules, and Annex II gives the detailed rules (Part 1: Plant Production). Production rules cover conversion; plant production; plant reproductive material; collection, packaging, transport and storage; and authorisation of products and substances

Annex 1 (Point 2) of this document lists the delegated and implementing acts with additional provisions that have so far been proposed or published. The main changes include:

- Exceptional production rules in case of catastrophic circumstances
- Detailed production rules for sprouted seeds, chicory heads
- Production and marketing rules for organic heterogeneous plant reproductive material
- Derogations on the use of non-organic and in-conversion plant reproductive material
- Authorised plant protection products and fertilisers
- Authorisation of products for cleaning and disinfection

Among changes of particular importance to ACP operators are those concerning holding status, and the use of plant protection products.

### Holding Status

The risk of non-compliance with organic production rules is considered higher in agricultural holdings that also have non-organic units. To address this, entire holdings must in future be managed as organic, except under certain conditions.

There will need to be clear and effective separation between organic, in-conversion and non-organic production units and the goods produced by those units. According to Article 9 of Regulation 2018/848 (General Production Rules): (Point 2) "The entire holding shall be managed in compliance with the requirements of this Regulation that apply to organic". However, (7) "a holding may be split into clearly and effectively separated production units for organic, in-conversion and non-organic production, provided that for the non-organic production units (b) as regards plants, different varieties that can be easily differentiated are involved". A producer cannot therefore grow the same crop/variety under both conventional and organic systems on the same holding.

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<sup>13</sup> According to Regulation (EU) 2021/1342



The wording of the Regulation for this requirement is unclear<sup>14</sup> and appears to refer only to producers in the European Union. However, it is assumed that the requirement applies also to operators in third countries who are supplying the EU market (**IMPORTANT NOTE: this has not been confirmed by the EU Authorities**).

### Plant Protection Products

Article 24 of Regulation 2018/848 sets out the basic rules for the “Authorisation of products and substances for use in organic production”. The detailed rules are outlined in Implementing Regulation (EU) 2021/1165<sup>15</sup>, together with Annexes that list the authorised products and substances including:

- Annex I : Active Substances Contained in Plant Protection Products Authorised For Use In Organic Production
- Annex II: Authorised Fertilisers, Soil Conditioners and Nutrients
- Annex IV: Authorised Products For Cleaning and Disinfection. Part B: Products for the cleaning and disinfection of buildings and installations used for plant production, including for storage on an agricultural holding. Part C: Products for cleaning and disinfection in processing and storage facilities
- Annex VI: Products and substances authorised for use in organic production in certain areas of third countries (pursuant to Article 45(2) of Regulation (EU) 2018/84)

Substances listed in Annex I must be approved in the “horizontal” EU pesticide legislation, and can only be used according to the conditions of use approved in the EU. They must:

- (a) be authorised under Regulation (EC) 1107/2009 (*sale and use of pesticides in the EU*);
- (b) be used only in accordance with the conditions for use specified in EU member state authorisations
- (c) be used according to the conditions of use set out in the Annex of Regulation (EU) 540/2011 (*list of approved active substances in the EU*)

The plant protection products and uses in Annex I, with EU approvals, are restrictive for some third countries. They do not cover all needs, particularly in tropical and sub-tropical countries where the pests, pest pressure, socio-economic and agroecological conditions are often very different to those in Europe. A procedure is therefore available for substances to be added to Annex VI when there are justified reasons (e.g. for a pest not present in the EU). The EC may “grant specific authorisations for the use of products and substances in third countries ... taking into account differences in the ecological balance in plant or animal production, specific climatic conditions, traditions and local conditions in those areas ... for a renewable period of two years”<sup>16</sup>.

Article 10 of Reg. (EU) 2021/1165 outlines the procedure involved to obtain these authorisations. Substances added to Annex VI do not need to be approved for use in the EU (under Reg. (EC) 1107/2009), but they must be in accordance with EU pesticide Maximum Residue Limits (MRLs) under Regulation (EC) No 396/2005.

These changes provide less flexibility than under the current equivalence arrangements, and are likely to significantly affect some producers in third countries. Of particular concern is the timescale and complexity involved in submitting a dossier to add a substance to Annex VI. The dossier preparation has significant data and cost requirements, and must be submitted by an EU Member State authority. It will be challenging for many third countries to access this possibility, and so will be inevitably be

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<sup>14</sup> Paragraph (19) of Regulation 2018/848: “The risk of non-compliance with organic production rules is considered higher in agricultural holdings which include units that are not managed under those rules. Therefore, after an appropriate conversion period, *all agricultural holdings in the Union* which aim to become organic should be entirely managed in compliance with the requirements applicable to organic production”.

<sup>15</sup> [Implementing Regulation \(EU\) 2021/1165 of 15 July 2021 authorising certain products and substances for use in organic production and establishing their lists](#)

<sup>16</sup> *Article 45, Point 2 of Regulation 2018/848*



restricted to only the most urgent cases. The time involved also means that export sectors will be left without access to substances they need for potentially one or two years during the application process.

In the case of organic pineapple, for example, growers are left with no commercially viable method that they can use for floral induction. Ethylene is the only available option, but under Annex I, it is restricted to use: “only on bananas and potatoes; it may also be used on citrus as part of a strategy for the prevention of fruit fly”. Without ethylene for floral induction, production of organic pineapple for the EU market is not viable. Preparation of a dossier for addition of ethylene to Annex VI is being initiated, but could take up to 2 years.

## ORGANIC RULES IN GREAT BRITAIN FOLLOWING BREXIT

On 31 January 2020, the United Kingdom left the European Union. To ensure a functioning regulatory system from day one, Great Britain (GB) transposed all the EU organic regulations into its own legal system. This means that it continues to operate according to the current EU regulations (834/2007; 889/2008 and 1235/2008)<sup>17</sup>.

When the new EU organic regulation 2018/848 comes into effect in January 2022, it will not be adopted by GB (England, Wales and Scotland). Instead, a new GB organic regulatory system will be developed over the next 2 years. This is expected to maintain the principle of equivalence, and to develop its own system of authorising control bodies. In the meantime, the current EU organic regulations will remain in force, and existing rules covering production and controls will stay in place.

Northern Ireland retains the EU regulations and will continue to operate as if it were a member of the EU for the purposes of organics. From January 2022, Northern Ireland will implement the new EU organic regulation, and will continue to use Traces NT for imports from third countries.

### Border Procedures

GB does not use Traces NT, but has a new import system with a GB Certificate of Inspection (COI). An electronic system will be developed in time, but at present imports operate using a paper-based system. Exporters have to pre-notify the GB port of entry direct, so that they are ready to clear incoming organic goods (it will not happen automatically, as it does with TRACES).

Copies of the new forms and guidance on the GB organic import system can be obtained from UK organic control bodies (such as the Soil Association<sup>18</sup>). There is also information on the gov.uk website.

Imports into GB from all ACP countries currently requires a GB paper-based COI. For each consignment, a GB PDF COI needs to be completed by the exporter, endorsed by their certifier, and be available to the GB Port Health or Border Control Post on arrival of the consignment. COIs don't need to travel with the consignment, but do need to be with the PHA/BCP ready for when the consignment arrives. If a signed digital copy is sent to PHA/BCP this will be accepted, but an original copy must be received by PHA/BCP within 10 days of clearance. A GB COI template and guidance is available on the Soil Association website.

Direct imports of high risk products please must be aware of the new IPAFFS system applicable for organic and non-organic products. More information can be found on the Government website<sup>19</sup>.

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<sup>17</sup> <https://www.gov.uk/guidance/trading-and-labelling-organic-food-from-1-january-2021>

<sup>18</sup> <https://www.soilassociation.org/certification/preparing-your-organic-business-for-brexite/importing-after-brexite/>

<sup>19</sup> <https://www.gov.uk/guidance/importing-or-moving-live-animals-animal-products-and-high-risk-food-and-feed-not-of-animal-origin>



## Trading Rules

The EU will recognise UK as equivalent for organics until 31 December 2023, and in addition, there is equivalence recognition of UK control bodies until 31 December 2021. The same equivalence recognition is applied by the UK with respect to the EU.

With respect to third countries, the EU equivalence arrangements (with 13 countries) have been rolled over into UK law, so that the UK can continue to trade with them on the same basis as previous. Similarly, all control bodies listed in EU Regulation 1235/2008 are recognised in the UK, so organic goods from ACP countries will be recognised by the UK as they were pre-Brexit.

A UK Government website has been developed to give updated lists of organisations (control bodies and control authorities) and third countries or territories (EU and non-EU) that may certify organic products for import into Great Britain<sup>20</sup>. Port Health Authorities and businesses can access and search these lists to determine where organic products may be imported from, and under what conditions.

Of importance to note are the **rules around triangular trade**, whereby produce passes from the exporting country to GB via the EU (or to the EU via the UK). The EU-GB organic equivalence agreement is bilateral so it does not involve trade with third countries. This means that if produce is exported from an ACP country to GB via any EU country (e.g. Uganda-Belgium-GB), and it clears customs in the EU, it will lose its organic status. The only way to avoid this is to export direct to GB, or to pass through the EU under customs supervision according to the Common Transit Convention (i.e. in transit).

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<sup>20</sup> [Organic registers: lists of third countries or territories, control bodies and control authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk)



## Annex 1: The Regulatory Instruments in Place (November 2021)

### 1. Basic Act

- [Regulation \(EU\) 2018/848](#) of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007

### 2. Secondary Legislation: Production Rules

- [Commission Delegated Regulation \(EU\) 2020/427](#) of 13 January 2020 amending Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards certain detailed production rules for organic products (**Rules on sprouted seeds, bees, aquaculture**)
- [Commission Implementing Regulation \(EU\) 2020/464](#) of 26 March 2020 laying down certain rules for the application of Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the documents needed for the retroactive recognition of periods for the purpose of conversion, the production of organic products and information to be provided by Member States (**Additional rules on conversion, animal welfare, processing**)
- [Commission Delegated Regulation \(EU\) 2020/1794](#) of 16 September 2020 amending Part I of Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the use of in conversion and non-organic plant reproductive material (**Increasing the availability of reproductive material**)
- [Commission Delegated Regulation \(EU\) 2020/2146](#) of 24 September 2020 supplementing Regulation (EU) 2018/848 as regards exceptional production rules in organic production (**Additional production rules to address exceptional and catastrophic circumstances**)
- [Commission Implementing Regulation \(EU\) 2020/2042](#) of 11 December 2020 amending Implementing Regulation (EU) 2020/464 as regards its date of application and certain other dates referred to in that Regulation (**Postponing date of application**)
- [Commission Delegated Regulation \(EU\) 2021/642](#) of 30 October 2020 amending Annex III to Regulation (EU) 2018/848 as regards certain information to be provided on the labelling of organic products
- [Commission Delegated Regulation \(EU\) 2021/716](#) of 9 February 2021 amending Annex II to Regulation (EU) 2018/848 as regards organic production rules on sprouted seeds and chicory heads, on feed for certain aquaculture animals, and on aquaculture parasite treatments (**Rules on sprouted seeds**).
- [Commission Delegated Regulation \(EU\) 2021/1189](#) of 7 May 2021 on the production and marketing of plant reproductive material of organic heterogeneous material of particular genera or species
- [Commission Implementing Regulation \(EU\) 2021/1165](#) of 16 July 2021 concerning the authorisation of products and substances for use in organic production and repealing Regulation (EC) No 889/2008 (**with Annexes listing authorised substances**).
- [Commission Delegated Regulation \(EU\) 2021/1691](#) of 22 September 2021 amending Annex II to Regulation (EU) 2018/848 as regards the requirements for record keeping from operators in organic production



- Commission Delegated Regulation (EU) .../... of XXX amending Part I of Annex II to Regulation (EU) 2018/848 as regards specific requirements for the production and use of non-organic, in-conversion and organic seedlings **(in the adoption Process)**
- Commission Implementing Regulation (EU) .../... of XXX laying down detailed rules for the implementation of Regulation (EU) 2018/848 on certain records and declarations required from operators and the technical means for the issuance of certificate **(in the adoption Process)**

### 3. Secondary Legislation: Control Rules

- [Commission Delegated Regulation \(EU\) 2021/715](#) of 20 January 2021 amending Regulation (EU) No 2018/848 of the European Parliament and of the Council as regards the requirements for groups of operators (Procedures for the ICS; responsibilities of the ICS manager and ICS inspectors; deficiencies in the ICS)
- [Commission Delegated Regulation \(EU\) 2021/771](#) of 21 January 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council by laying down specific criteria and conditions for the checks of documentary accounts in the framework of official controls in organic production and the official controls of groups of operators **(Checks of documents; official controls of groups of operators)**
- [Commission Implementing Regulation \(EU\) 279/2021](#) of 22 February 2021 laying down detailed rules for implementation of Regulation (EU) 2018/848 of the European Parliament and of the Council on controls and other measures ensuring traceability and compliance in organic production **(group composition and size, percentage controls & sampling; suspicion of non-compliance)**
- [Commission Delegated Regulation \(EU\) 2021/1006](#) of 12 April 2021 amending Regulation (EU) No 2018/848 as regards the model of the certificate attesting compliance with the rules on organic production
- Commission Implementing Regulation (EU) .../... of XXX amending Implementing Regulation (EU) 2019/723 as regards the information and data on organic production and labelling of organic products to be submitted by means of the standard model form **(in the adoption process)**
- Commission Notice on a guidance document on how to fill in section 9 of the standard model form in the Annex to Commission Implementing Regulation (EU) 2019/723 **(in the adoption process)**
- Commission Implementing Regulation .../... of XXX laying down detailed rules for the implementation of Regulation (EU) 2018/848 of the European Parliament and of the Council as regards records keeping and the technical means by which the certificate is issued **(in the adoption process)**
- Commission Delegated Regulation (EU) .../...of XXX supplementing Regulation (EU) 2018/848 with rules on the issuance of complementary certificates certifying the non-use of antibiotics in organic production of animal products for the purpose of export **(in the adoption process)**

### 4. Secondary Legislation: Trade Rules

- [Commission Delegated Regulation \(EU\) 2021/1342](#) of 27 May 2021 supplementing Regulation (EU) 2018/848 with rules on the information to be sent by third countries and by control authorities and control bodies for the purpose of supervision of their recognition under Article



33(2) and (3) of Council Regulation (EC) No 834/2007 and the measures to be taken in the exercise of that supervision

- [Commission Delegated Regulation \(EU\) 2021/1697](#) of 13 July 2021 amending Regulation (EU) 2018/848 as regards the criteria for the recognition of control authorities and control bodies that are competent to carry out controls on organic products in third countries, and for the withdrawal of their recognition (Text with EEA relevance)
- [Commission Delegated Regulation \(EU\) 2021/1698](#) of 13 July 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with procedural requirements for the recognition of control authorities and control bodies that are competent to carry out controls on operators and groups of operators certified organic and on organic products in third countries and with rules on their supervision and the controls and other actions to be performed by those control authorities and control bodies (Text with EEA relevance)
- [Commission Implementing Regulation \(EU\) 2021/1378](#) of 19 August 2021 laying down certain rules concerning the certificate issued to operators, groups of operators and exporters in third countries involved in the imports of organic and in-conversion products into the Union and establishing the list of recognised control authorities and control bodies, in accordance with Regulation (EU) 2018/848
- [Commission Implementing Regulation \(EU\) .../... of XXX](#) laying down detailed rules for implementation of Regulation (EU) No 2018/848 as regards the lists of third countries recognised under Article 33(2) and control authorities and control bodies recognised under Article 33(3) of Regulation (EC) No 834/2007 and the review of those lists (**in the adoption process**)

#### 5. Secondary Legislation: Official Controls

- [Commission Delegated Regulation \(EU\) .../...](#) of 21.10.2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the official controls in respect of consignments of organic products and in-conversion products intended for import into the Union and on the certificate of inspection (**in the adoption process**)
- **Commission Implementing Regulation (EU) .../... of XXX** to lay down the rules for operators established in the EU and the notification of non-compliance by Member States as regards the consignments intended for import into the Union (**in the adoption process**)
- [Commission Implementing Regulation \(EU\) 2020/479](#) of 1 April 2020 amending Regulation (EC) No 1235/2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (**Existing rules concerning the Certificate of Inspection - COI**).





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