

Fruit and vegetables

Extension of rules to non-member producers in an economic area

In cases where a recognised producer organisation (PO) or association of producer organisations (APO) in the fruit and vegetables sector is considered, in respect of a specific product, to be representative of production and producers in the specific economic area where it operates, the Member State concerned may, at the request of the producer organisation (or the APO), make the following rules binding on other non-member producers established in that economic area:

- (1) the rules referred to production reporting, production, marketing and protection of the environment;
- (2) the rules referred to promotion and communication in the context of crisis prevention and management.

The extension shall apply on condition that those rules:

- (a) have been in force for at least one marketing year;
- (b) are included in the exhaustive list of rules that may be extended to non-member producers;
- (c) are made binding for no more than three marketing years.

However, the condition referred to in point (a) shall not apply if the rules concerned are those related to production information, marketing and promotion and communication in the context of crisis prevention and management. In this case, the extension of rules may not apply for more than one marketing year.

Member States must notify a [list of economic areas](#) to the Commission. 'Economic area' means a geographical zone made up of adjoining or neighbouring production regions in which production and marketing conditions are homogeneous. Within one month of notification, the Commission must approve the list or must, after consultation with the Member State concerned, decide on the amendments which the latter must make to it. The Commission must make the approved list publicly available.

A producer organisation is deemed representative of production and producers in the specific economic area where it operates, with view to an extension of rules, where its members account for at least 50 % of the producers in that economic area and it covers at least 60 % of the volume of production of the area. In calculating those percentages account must not be taken of producers or production of organic products covered by [Regulation \(EC\) No 834/2007](#).

The rules which are made binding on all producers in a specific economic area:

- (a) must not cause any damage to other producers in the Member State concerned or in the Union;
- (b) must not apply, unless they expressly cover them, to products delivered for processing under a contract signed before the beginning of the marketing year, with the exception of the rules on production reporting;
- (c) must not be incompatible with Union and national rules in force.

Rules may not be made binding on producers of organic products, with same exceptions.

Member States must notify the Commission forthwith of the [rules that they have made binding on all producers in a specific economic area](#). The Commission must make these rules publicly available.

The Commission must decide that a Member State shall repeal an extension of the rules decided on by that Member State:

(a) where it finds that the extension in question to other producers excludes competition in a substantial part of the internal market or jeopardises free trade, or that the objectives of Article 39 of the Treaty are endangered;

(b) where it finds that Article 101(1) of the Treaty on the functioning of the European Union (TFEU) applies to the rules extended to other producers. The Commission's decision with regard to those rules shall apply only from the date of such a finding;

(c) where it finds after checks that the concerned rules of Regulation (EC) No 1234/2007 have not been complied with.

The Member State concerned may decide, on scrutiny of evidence presented, that non-member producers shall be liable to the producer organisation for the part of the financial contributions paid by the producer members, insofar as these are used to cover:

(a) administrative costs resulting from applying the rules made binding;

(b) the cost of research, market studies and sales promotion undertaken by the organisation or association and benefiting all producers in the area.

Exhaustive list of rules that may be extended to non-members producers

1. Rules on production information

(a) notification of growing intentions, by product and where appropriate by variety;

(b) notification of sowings and plantings;

(c) notification of total areas grown, by product and if possible variety;

(d) notification of anticipated tonnages and probable cropping dates by product and if possible variety;

(e) periodic notification of quantities cropped and available stocks, by variety;

(f) information on storage capacities.

2. Production rules

(a) choice of seed to be used according to intended destination (fresh market/industrial processing);

(b) thinning in orchards.

3. Marketing rules

- (a) specified dates for commencement of cropping, staggering of marketing;
- (b) minimum quality and size requirements;
- (c) preparation, presentation, packaging and marking at first marketing stage;
- (d) indication of product origin.

4. Rules on the protection of the environment

- (a) use of fertiliser and manure;
- (b) use of plant-health products and other crop protection methods;
- (c) maximum residue content in fruit and vegetables of plant-health products and fertilisers;
- (d) rules on disposal of by-products and used material;
- (e) rules concerning products withdrawn from the market.

5. Rules on promotion and communication in the context of crisis prevention and management.