

## Fruit and vegetables

### Recognition and withdrawal of recognition of an interbranch organisation in the fruit and vegetables sector

Member States may recognise as interbranch organisations in the fruit and vegetables sector all legal entities established on their territory that make an appropriate application, on condition that:

- (a) they carry out their activity in one or more regions in the Member State concerned;
- (b) they represent a significant share of the production of, trade in and/or processing of fruit and vegetables and products processed from fruit and vegetables in the region or regions in question and, where more than one region is involved, they can demonstrate a minimum level of representativeness in each region for each of the branches that they group;
- (c) they carry out two or more of the following activities:
  - (i) improving knowledge and the transparency of production and the market;
  - (ii) helping to coordinate better the way the products are placed on the market, in particular by means of research and market studies;
  - (iii) drawing up standard forms of contract compatible with Union rules;
  - (iv) exploiting to a fuller extent the potential of the fruit and vegetables produced;
  - (v) providing the information and carrying out the research necessary to adjust production towards products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality and protection of the environment;
  - (vi) seeking ways of restricting the use of plant-health products and other inputs and ensuring product quality and soil and water conservation;
  - (vii) developing methods and instruments for improving product quality at all stages of production and marketing;
  - (viii) exploiting the potential of organic farming and protecting and promoting such farming as well as designations of origin, quality labels and geographical indications;
  - (ix) promoting integrated production or other environmentally sound production methods;
  - (x) laying down rules, as regards the production and marketing rules that may be extended to non-members producers pursuant to the Union legislation, which are stricter than Union or national rules;
- d) they are not themselves engaged in the production or processing or marketing of fruit and vegetables or products processed from fruit and vegetables;
- (e) they do not engage in any of the agreements, decisions or concerted practices which would be incompatible with Union rules;

Before granting recognition Member States must notify the Commission of the interbranch organisations which have applied for recognition, providing all relevant information about their representativeness and their various

activities, together with all other information needed for an assessment. The Commission may object to recognition within a time limit of two months after notification.

The Commission shall make publicly available a [list of recognised interbranch organisations](#).

## **Extension of rules of interbranch organisations in the fruit and vegetables sector**

As for recognised producer organisations, at the request of a recognised interbranch organisation (IBO), a Member State may make binding, for a limited period of time, some rules (e.g. agreements, decisions or concerted practices) agreed on within that organisation on other operators in the region or regions where the OIB is operating.

The rules for which extension to other operators may be requested:

(a) must have one of the following aims:

- (i) production and market reporting;
- (ii) stricter production rules than those laid down in Union or national rules;
- (iii) drawing up of standard contracts which are compatible with Union rules;
- (iv) rules on marketing;
- (v) rules on protecting the environment;
- (vi) measures to promote and exploit the potential of products;
- (vii) measures to protect organic farming as well as designations of origin, quality labels and geographical indications;

(b) must have been in force for at least one marketing year;

(c) may be made binding for no more than three marketing years;

(d) must not cause any damage to other operators in the Member State concerned or the Union.

However, the condition referred to in point (b) shall not apply if the rules concerned are those relating to production information, marketing and promotion and communication in the context of crisis prevention and management as referred to in the list of rules that may be extended to non-producer members. In this case, the extension of rules may not apply for more than one marketing year.

The rules referred to in points (a)(ii), (iv) and (v) above shall not be other than those set out in the list of rules that may be extended to non-producer members. The rules referred to in point (a)(ii) shall not apply to products which were produced outside the specific region or regions where the IBO is operating.

Member States must notify the Commission forthwith of the rules that they have made binding on all operators in one or more specific regions. The Commission must make those rules publicly available.

The Commission must decide that a Member State must repeal an extension of the rules decided on in the following cases:

(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 it has not been complied with the provisions of this chapter.

## **Agreements and concerted practices in the fruit and vegetables sector**

Article 101(1) of the Treaty on the functioning of the European Union (TFEU) does not apply to the agreements, decisions and concerted practices of recognised interbranch organisations in the fruit and vegetables sector provided that:

a) the agreements, decisions and concerted practices have been notified to the Commission;

b) within two month of receipt of all the details required the Commission has not found that the agreements, decisions or concerted practices are incompatible with Union rules.

The agreements, decisions and concerted practices may not be put into effect before the two month period referred in b) elapses.

The following agreements, decisions and concerted practices shall in any case be declared incompatible with Union rules:

(a) agreements, decisions and concerted practices which may lead to the partitioning of markets in any form within the Community;

(b) agreements, decisions and concerted practices which may affect the sound operation of the market organisation;

(c) agreements, decisions and concerted practices which may create distortions of competition which are not essential to achieving the objectives of the common agricultural policy pursued by the interbranch organisation activity;

(d) agreements, decisions and concerted practices which entail the fixing of prices, without prejudice to activities carried out by interbranch organisations in the application of specific Community rules;

(e) agreements, decisions and concerted practices which may create discrimination or eliminate competition in respect of a substantial proportion of the products in question.

If, following expiry of the two-month period referred to above, the Commission finds that the conditions for exemption have not been met, it shall take a Decision declaring that Article 101(1) of the Treaty on the functioning of the European Union (TFEU) applies to the agreement, decision or concerted practice in question. This Commission Decision shall not apply earlier than the date of its notification to the interbranch organisation concerned, unless that interbranch organisation has given incorrect information or abused the exemption provided for in the first paragraph.

In the case of multiannual agreements, the notification for the first year shall be valid for the subsequent years of the agreement. However, in that event, the Commission may, on its own initiative or at the request of another Member State, issue a finding of incompatibility at any time.

## **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.**