

This text is meant purely as a documentation tool and has no legal effect. The Union's institutions do not assume any liability for its contents. The authentic versions of the relevant acts, including their preambles, are those published in the Official Journal of the European Union and available in EUR-Lex. Those official texts are directly accessible through the links embedded in this document

► **B**

COMMISSION DELEGATED REGULATION (EU) 2017/891
of 13 March 2017

supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors and amending Commission Implementing Regulation (EU) No 543/2011

(OJ L 138, 25.5.2017, p. 4)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Commission Delegated Regulation (EU) 2018/1145 of 7 June 2018	L 208	1	17.8.2018
► <u>M2</u>	Commission Delegated Regulation (EU) 2020/743 of 30 March 2020	L 176	1	5.6.2020

**COMMISSION DELEGATED REGULATION (EU) 2017/891****of 13 March 2017**

supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors and amending Commission Implementing Regulation (EU) No 543/2011

TITLE I

INTRODUCTORY PROVISIONS*Article 1***Subject matter and scope**

This Regulation supplements Regulation (EU) No 1308/2013 as regards the fruit and vegetables and processed fruit and vegetables sectors as referred to in Article 1(2)(i) and (j) of that Regulation, with the exception of marketing standards, and supplements Regulation (EU) No 1306/2013 as regards penalties to be applied in those sectors.

However, Title II of this Regulation shall only apply to products of the fruit and vegetables sector as referred to in Article 1(2)(i) of Regulation (EU) No 1308/2013 and to such products intended for processing.

TITLE II

PRODUCER ORGANISATIONS*CHAPTER I****Requirements and recognition***

Section 1

Definitions*Article 2***Definitions**

For the purposes of this Title the following definitions shall apply:

- (a) ‘producer’ means a farmer within the meaning of Article 4(1)(a) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council⁽¹⁾ producing fruit and vegetables as referred to in Article 1(2)(i) of Regulation (EU) No 1308/2013 and such products intended solely for processing;

⁽¹⁾ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).

▼B

- (b) ‘producer member’ means a producer or legal entity constituted by producers that is a member of a producer organisation or association of producer organisations;
- (c) ‘subsidiary’ means a company in which one or more producer organisations or associations of producer organisations have taken shares or constituted capital and which contributes to the objectives of those organisations or associations;
- (d) ‘transnational producer organisation’ means any organisation in which at least one of the producers’ holdings is located in a Member State other than where the organisation has its head office;

▼M1

- (e) ‘transnational association of producer organisations’ means any association of producer organisations in which at least one of the associated organisations or associations is located in a Member State other than where the association has its head office;

▼B

- (f) ‘measure’ means one of the following:
 - (i) actions aimed at the planning of production, including investments in physical assets;
 - (ii) actions aimed at improving or maintaining product quality, whether in a fresh or processed form, including investments in physical assets;
 - (iii) actions aimed at boosting the commercial value of products and improving marketing, including investments in physical assets, as well as promotion of the products, whether in a fresh or processed form, and communication activities other than promotion and communication activities falling under point (vi);
 - (iv) research and experimental production actions, including investments in physical assets;
 - (v) training and exchange of best practices actions, other than training falling under point (vi), and actions aimed at promoting access to advisory services and technical assistance;
 - (vi) any of the crisis prevention and management actions listed in the first subparagraph of Article 33(3) of Regulation (EU) No 1308/2013;
 - (vii) environmental actions as referred to in Article 33(5) of Regulation (EU) No 1308/2013, including investments in physical assets;
 - (viii) other actions, including investments in physical assets, other than those falling under points (i) to (vii) which fulfil one or more of the objectives referred to or set out in Article 33(1) of Regulation (EU) No 1308/2013;
- (g) ‘action’ means a specific activity or instrument aimed at contributing to one or more of the objectives referred to or set out in Article 33(1) of Regulation (EU) No 1308/2013;

▼B

- (h) ‘investment in physical assets’ means the acquisition of tangible assets aimed at contributing to one or more of the objectives referred to or set out in Article 33(1) of Regulation (EU) No 1308/2013;
- (i) ‘by-product’ means a product which results from preparation of a fruit or vegetable product which has a positive economic value but is not the main intended product;
- (j) ‘preparation’ means preparatory activities such as cleaning, cutting, peeling, trimming and drying of fruit and vegetables, without transforming them into processed fruit and vegetables;
- (k) ‘interbranch basis’ as referred to in Article 34(3)(b) of Regulation (EU) No 1308/2013 means activities pursuing one or more of the objectives listed in Article 157(1)(c) of that Regulation approved by the Member State and managed jointly by a producer organisation or an association of producer organisations and at least one other actor in the food processing or distribution chain;
- (l) ‘baseline indicator’ means any indicator reflecting a state or trend existing at the start of a programming period which may provide information useful:
 - (i) in the analysis of the initial situation, in order to establish a national strategy for sustainable operational programmes or an operational programme;
 - (ii) as a reference against which the results and impact of a national strategy or an operational programme may be assessed; or
 - (iii) in interpreting the results and impact of a national strategy or an operational programme;
- (m) ‘specific costs’ means the additional costs, calculated as the difference between the conventional costs and the costs actually incurred, and income foregone resulting from an action, excluding additional income and costs savings.

Section 2**Recognition criteria and other requirements***Article 3***Legal status of producer organisations**

Member States shall define the legal entities which may apply for recognition pursuant to Article 154 of Regulation (EU) No 1308/2013 in the light of their national legal and administrative structures. Where applicable, they shall also lay down provisions on clearly defined parts of legal entities which may apply for recognition pursuant to that Article. Member States may adopt complementary rules on recognition of producer organisations and on legal entities which may apply for recognition as producer organisations.

▼B*Article 4***Product coverage**

1. Member States shall recognise producer organisations in respect of the product or the group of products specified in the application for recognition.
2. Member States shall recognise producer organisations in respect of the product or the group of products solely intended for processing where the producer organisations are able to ensure that such products are delivered for processing, whether through a system of supply contracts or otherwise.

*Article 5***Minimum number of members**

For the purposes of Article 154(1)(b) of Regulation (EU) No 1308/2013, Member States shall lay down a minimum number of members.

When laying down the minimum number of members of a producer organisation, Member States may provide that where an applicant for recognition is wholly or partly made up of members which are themselves legal entities or clearly defined parts of legal entities made up of producers, the minimum number of producers may be calculated on the basis of the number of producers associated with each of the legal entities or clearly defined parts of legal entities.

*Article 6***Minimum length of membership**

1. The minimum membership period of a producer shall not be less than one year.
2. Resignation from membership shall be notified to the producer organisation in writing. Member States shall lay down the notice period, which shall not exceed six months, and the date on which resignation shall take effect.

*Article 7***Structures and activities of producer organisations**

Member States shall verify that producer organisations have at their disposal the staff, infrastructure and equipment necessary to fulfil the requirements laid down in Articles 152, 154 and 160 of Regulation (EU) No 1308/2013 and to ensure their essential functioning, in particular as regards:

- (a) the knowledge of their members' production;
- (b) the technical means for collecting, sorting, storing and packaging the production of their members;
- (c) marketing the production of their members;

▼B

- (d) commercial and budgetary management; and
- (e) centralised cost-based accounting and a system of invoicing according to national law.

*Article 8***Value or volume of marketable production**

1. For the purposes of Article 154(1)(b) of Regulation (EU) No 1308/2013, the value or volume of marketable production shall be calculated on the same basis as the value of marketed production set out in Articles 22 and 23 of this Regulation.
2. In circumstances when the historical data on marketed production of a member for the application of paragraph 1 is not sufficient, the value of the marketable production shall be equal to the actual value of marketed production during a period of 12 consecutive months. Those 12 months shall fall within the three years preceding the year in which the application for recognition is submitted.

*Article 9***Minimum value of marketed production**

For the purposes of Article 154(1)(b) of Regulation (EU) No 1308/2013, Member States shall, in addition to a minimum number of members, lay down a minimum value of marketed production for producer organisations implementing an operational programme.

*Article 10***Provision of technical means**

For the purposes of Article 154(1)(c) of Regulation (EU) No 1308/2013 and Article 7(b) of this Regulation, a producer organisation which is recognised for a product for which the provision of technical means is necessary, shall be considered to fulfil its obligation in that regard, where it provides an adequate level of technical means itself or through its members, or through subsidiaries, or through an association of producer organisations of which it is a member or by outsourcing.

*Article 11***Producer organisations' main activities**

1. The main activity of a producer organisation shall relate to the concentration of supply and the placing on the market of the products of its members for which it is recognised.

The placing on the market referred to in the first subparagraph shall be carried out by the producer organisation, or under the control of the producer organisation in the case of outsourcing as set out in Article 13. Placing on the market shall include among others the decision on the product to be sold, the way of selling and unless the sale is by means of auction, the negotiation of its quantity and price.

▼B

Producer organisations shall keep records, including accounting documents, for at least five years, which demonstrate that the producer organisation concentrated supply and placed on the market members' products for which it is recognised.

2. A producer organisation may sell products from producers that are not a member of a producer organisation or of an association of producer organisations, where it is recognised in respect of those products and provided that the economic value of that activity is below the value of its marketed production calculated in accordance with Article 22.

3. The marketing of fruit and vegetables that are bought directly from another producer organisation and of products for which the producer organisation is not recognised shall not be considered as forming part of the producer organisation's activities.

4. Where Article 22(8) applies, paragraph 2 of this Article shall apply *mutatis mutandis* to the subsidiaries concerned.

▼M1*Article 12***Marketing of the production outside the producer organisation**

1. Where the producer organisation so authorises in its statutes and where this is in compliance with the terms and conditions laid down by the Member State and the producer organisation, the producer members may:

- (a) sell products directly or outside their holdings to consumers for their personal needs;
- (b) market by themselves or through another producer organisation designated by their own producer organisation, quantities of products which, in terms of volume or value, are marginal compared to the volume or value of marketable production of their organisation of the products concerned;
- (c) market by themselves or through another producer organisation designated by their own producer organisation, products which because of their characteristics or because of the limited production in volume or in value of the producer members, are normally not covered by the commercial activities of the producer organisation.

2. The percentage of the production that the producer members market outside the producer organisation, as referred to in paragraph 1 shall not exceed 25 % in volume or in value of the marketable production of each producer member.

However, Member States may set a lower percentage of the production that the producer members may market outside the producer organisation than the one set out in the first subparagraph. Member States may increase that percentage up to 40 % in case of products covered by Council Regulation (EC) No 834/2007 ⁽¹⁾ or where producer members market their production through another producer organisation designated by their own producer organisation.

⁽¹⁾ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).



Article 13

Outsourcing

1. The activities that a Member State may permit to be outsourced in accordance with Article 155 of Regulation (EU) No 1308/2013 shall relate to the objectives as set out in Article 152(1)(c) of that Regulation and may include, among others, collecting, storing, packaging and marketing the product of the members of the producer organisation.

2. A producer organisation outsourcing an activity shall enter into a written commercial arrangement by way of a contract, agreement or protocol with another entity, including one or several of its members or a subsidiary, for the purpose of carrying out of the activity concerned. The producer organisation shall remain responsible for ensuring the carrying out of the outsourced activity and overall management control and supervision of the commercial arrangement for the carrying out of the activity.

However, the activity shall be considered as carried out by the producer organisation if it is carried out by an association of producer organisations or a cooperative whose members are themselves cooperatives where the producer organisation is a member thereof or by a subsidiary complying with the 90 % requirement referred to in Article 22(8).

3. The overall management control and supervision referred to in the first subparagraph of paragraph 2 shall be effective and require that the outsourcing contract, agreement or protocol:

- (a) enables the producer organisation to issue binding instructions and includes provisions enabling the producer organisation to terminate the contract, agreement or protocol if the service provider does not meet the terms and conditions of the outsourcing contract;
- (b) lays down detailed terms and conditions, including regular reporting obligations and deadlines which enable the producer organisation to exercise effective control over the outsourced activities.

Outsourcing contracts, agreements or protocols as well as the reports referred to in point (b) of the first subparagraph shall be kept by the producer organisation for at least 5 years for the purpose of *ex-post* checks and be accessible to all members on request.

Article 14

Transnational producer organisations

1. The head office of a transnational producer organisation shall be located in the Member State in which the organisation achieves the majority of the value of marketed production calculated in accordance with Articles 22 and 23.

Alternatively, the head office may be established in the Member State where the majority of producer members are located, if the Member States concerned so agree.

▼B

2. Where the transnational producer organisation implements an operational programme and where, at the moment of applying for a new operational programme, the majority of the value of marketed production is achieved in another Member State or where the majority of the producer members are located in a Member State other than that where the head office of that transnational producer organisation is located, the head office shall be maintained in the current Member State until the end of the implementation of the new operational programme.

However, if at the end of the implementation of that new operational programme, the majority of the value of marketed production is still achieved or the majority of the organisation's members are still located in a Member State other than that where the head office is currently located, the head office shall be transferred to that other Member State, unless the Member States concerned agree that the location of the head office shall not be changed.

3. The Member State in which the head office of the transnational producer organisation is located shall be responsible for the following:

- (a) recognising the transnational producer organisation;
- (b) approving the transnational producer organisation's operational programme;
- (c) establishing the necessary administrative cooperation with the other Member States in which the members are located with respect to compliance with the terms of recognition and the system of checks and administrative penalties. Those other Member States shall give all necessary assistance to the Member State in which the head office is located in due time; and
- (d) providing, on the request of a Member State in which the members are located, all relevant documentation, including any applicable legislation available, translated into the official language or one of the official languages of that Member State.

*Article 15***Mergers of producer organisations**

1. Where producer organisations merge, the producer organisation resulting from the merger shall assume the rights and obligations of the individual producer organisations that merged. The Member State shall ensure that the new producer organisation complies with all recognition criteria and shall assign to it a new number for the purposes of the unique identification system as referred to in Article 22 of Implementing Regulation (EU) 2017/892.

The producer organisation resulting from the merger may either operate the programmes in parallel and separately until 1 January of the year following the merger, or merge the operational programmes from the moment of the merger.

Article 34 of this Regulation shall apply to operational programmes that are merged.

▼B

2. By way of derogation from the second subparagraph of paragraph 1, Member States may authorise on the basis of a duly substantiated request, operational programmes to continue to be implemented in parallel until they reach their natural conclusion.

*Article 16***Non-producer members**

1. Member States may determine the conditions under which any natural or legal person who is not a producer may be accepted as a member of a producer organisation.

2. When setting the conditions referred to in paragraph 1, Member States shall ensure, in particular, compliance with Article 153(2)(c) and Article 159(a)(i) of Regulation (EU) No 1308/2013.

3. The natural or legal persons referred to in paragraph 1 shall not:

(a) be taken into account for the recognition criteria;

(b) benefit directly from the measures financed by the Union.

Member States may restrict or prohibit the natural or legal persons' right to vote on decisions relating to operational funds, in line with the conditions referred to in paragraph 1.

*Article 17***Democratic accountability of producer organisations**

1. Where a producer organisation has a legal structure requiring democratic accountability under the applicable national legislation, it shall be considered to fulfill this requirement for the purposes of this Regulation unless the Member State decides otherwise.

2. For producer organisations other than the one referred to in paragraph 1, Member States shall set a maximum percentage of voting rights and shares or capital which any natural or legal person may hold in a producer organisation. The maximum percentage of voting rights and shares or capital shall be below 50 % of the total voting rights and below 50 % of the shares or capital.

In duly justified cases, Member States may set a higher maximum percentage of shares or capital that a legal person may hold in a producer organisation provided that measures are adopted to ensure that an abuse of power by such legal person is in any case avoided.

By way of derogation from the first subparagraph, in the case of producer organisations implementing an operational programme on 17 May 2014, the maximum percentage of shares or capital set by the Member State pursuant to the first subparagraph shall only apply after the end of that operational programme.

▼B

3. Member States' authorities shall carry out checks, based on a risk analysis, on voting rights and shareholdings. Where the members of the producer organisation are legal persons themselves, these checks shall include the identities of the natural or legal persons that hold shares or capital of the members.

4. Where a producer organisation is a clearly defined part of a legal entity, Member States shall adopt measures to restrict or prohibit the powers of that legal entity to modify, approve or reject decisions of the producer organisation.

Section 3**Associations of producer organisations***Article 18***Rules on producer organisations applicable to associations of producer organisations**

Articles 3, 6, 11(3), 13, 15 and 17 shall apply *mutatis mutandis* to associations of producer organisations. Where the association of producer organisations sells the products of its member producer organisations, Article 11(2) shall apply *mutatis mutandis*.

*Article 19***Recognition of associations of producer organisations**

1. Member States may recognise associations of producer organisations under Article 156 of Regulation (EU) No 1308/2013 in respect of the activity or activities concerning the product or the group of products specified in the application for recognition where the association of producer organisations is capable of carrying out effectively those activities.

2. An association of producer organisations recognised under Article 156 of Regulation (EU) No 1308/2013 may carry out any of the activities or functions of a producer organisation, even when the marketing of the products concerned continues to be carried out by its members.

3. For a given product or group of products and activity, a producer organisation shall be a member only of one association of producer organisations that implements an operational programme.

4. Member States may adopt complementary rules on recognition of associations of producer organisations.

*Article 20***Members of associations of producer organisations who are not producer organisations**

1. Member States may determine the conditions under which natural or legal persons other than a recognised producer organisation may be a member of an association of producer organisations.

▼B

2. Members of a recognised association of producer organisations who are not recognised producer organisations shall not:

- (a) be taken into account for the recognition criteria;
- (b) benefit directly from the measures financed by the Union.

Member States may permit, restrict or prohibit those members' right to vote on decisions relating to operational programmes.

*Article 21***Transnational association of producer organisations**

1. The head office of a transnational association of producer organisations shall be located in the Member State in which the member producer organisations achieve the majority of the value of marketed production.

Alternatively, the head office may be established in the Member State where the majority of member producer organisations are located, if the Member States concerned so agree.

2. Where the transnational association of producer organisations implements an operational programme and where, at the moment of applying for a new operational programme, the majority of the value of marketed production is achieved in another Member State or where the majority of member producer organisations are located in a Member State other than that where the head office of that transnational association is located, the head office shall be maintained in the current Member State until the end of the implementation of the new operational programme.

However, if at the end of the implementation of that new operational programme, the majority of the value of marketed production is still achieved or the majority of member producer organisations are still located in a Member State other than that where the head office is currently located, the head office shall be transferred to that other Member State, unless the Member States concerned agree that the location of the head office shall not be changed.

3. The Member State in which the head office of the transnational association of producer organisations is located shall be responsible for the following:

- (a) recognising the association;
- (b) approving, where applicable, the transnational association's operational programme;
- (c) establishing the necessary administrative cooperation with the other Member States in which the associated organisations are located with respect to compliance with the terms of recognition, the implementation of the operational programme by the member producer organisations and the system of checks and administrative penalties. Those other Member States shall give all necessary assistance to the Member State in which the head office is located; and

▼B

- (d) providing, on the request of a Member State in which the members are located, all relevant documentation, including any applicable legislation available, translated into the official language or one of the official languages of that Member State.

*CHAPTER II**Operational funds and operational programmes*

Section 1

Value of marketed production*Article 22***Basis for calculation**

1. The value of marketed production for a producer organisation shall be calculated on the basis of the production of the producer organisation itself and its producer members, and shall only include the production of those fruit and vegetables for which the producer organisation is recognised. The value of marketed production may include fruit and vegetables that are not required to conform to the marketing standards, where those standards do not apply.

The value of marketed production for an association of producer organisations shall be calculated on the basis of the production marketed by the association of producer organisations itself and by its member producer organisations, and shall only include the production of those fruit and vegetables for which the association of producer organisations is recognised. In making this calculation duplicate counting shall be avoided.

2. The value of the marketed production shall not include the value of processed fruit and vegetables or any other product that is not a product of the fruit and vegetables sector.

However, the value of the marketed production of fruit and vegetables intended for processing, which have been transformed into one of the processed fruit and vegetable products listed in Part X of Annex I to Regulation (EU) No 1308/2013 or any other processed product referred to in this Article and described further in Annex I to this Regulation, by either a producer organisation, an association of producer organisations or their producer members or subsidiaries complying with the 90 % requirement referred to in paragraph 8 of this Article, either by themselves or through outsourcing, shall be calculated as a flat rate in percentage applied to the invoiced value of those processed products. That flat rate shall be:

- (a) 53 % for fruit juices;
- (b) 73 % for concentrated juices;
- (c) 77 % for tomato concentrate;
- (d) 62 % for frozen fruit and vegetables;
- (e) 48 % for canned fruit and vegetables;

▼B

- (f) 70 % for canned mushrooms of the genus *Agaricus*;
- (g) 81 % for fruits provisionally preserved in brine;
- (h) 81 % for dried fruits;
- (i) 27 % for processed fruit and vegetables other than those referred to in points (a) to (h);
- (j) 12 % for processed aromatic herbs;
- (k) 41 % for paprika powder.

3. Member States may allow producer organisations to include the value of the by-products in the value of marketed production.

4. The value of marketed production shall include the value of market withdrawals disposed of as provided for in Article 34(4) of Regulation (EU) No 1308/2013. The value shall be calculated on the basis of the average price of those products marketed by the producer organisation in the concerned period.

5. Only the production of the producer organisation and its producer members which is marketed by that producer organisation shall be counted in the value of marketed production. The production of the producer members of the producer organisation marketed by another producer organisation designated by their own organisation shall be counted in the value of marketed production of the second producer organisation. Duplicate counting shall be avoided.

6. Except where paragraph 8 applies, the marketed production of fruit and vegetables shall be invoiced at the 'ex-producer organisation' stage as a product listed in Part IX of Annex I to Regulation (EU) No 1308/2013 that is prepared and packaged, excluding:

- (a) VAT;
- (b) costs of transport internal to the producer organisation, for the distance between the centralised collection or packing points of the producer organisation and the point of distribution of the producer organisation which exceeds 300 km.

7. The value of marketed production may also be calculated at the 'ex-association of producer organisation' stage and on the same basis as set out in paragraph 6.

8. The value of marketed production may also be calculated at the 'ex-subsidiary' stage, on the same basis as set out in paragraph 6, provided that at least 90 % of the shares or capital of the subsidiary is owned:

- (a) by one or more producer organisations or associations of producer organisations; or

▼B

(b) subject to Member State approval, by producer members of the producer organisations or associations of producer organisations, if doing so contributes to the objectives listed in Article 152(1)(c) of Regulation (EU) No 1308/2013.

9. In case of outsourcing, the value of marketed production shall be calculated at the 'ex-producer organisation' stage and shall include the added economic value of the activity that has been outsourced by the producer organisation to its members, third parties or to another subsidiary than the one referred to in paragraph 8.

▼M1

10. Where a reduction in production occurs due to a natural disaster, climatic event, animal or plant diseases or pest infestations, any insurance indemnification received in respect of harvest insurance actions covered by Section 7 of Chapter III, or equivalent actions managed by the producer organisation or its producer members, due to those causes may be included in the value of marketed production.

▼B*Article 23***Reference period and ceiling on Union financial assistance**

1. Member States shall determine for each producer organisation a 12-month reference period, starting no earlier than 1 January of the year that is three years prior to the year for which the aid is requested and ending no later than 31 December of the year preceding the year for which the aid is requested.

The 12-month reference period shall be the accounting period of the producer organisation concerned.

The methodology for fixing the reference period shall not vary during an operational programme except in duly justified situations.

2. The ceiling on Union financial assistance referred to in Article 34(2) of Regulation (EU) No 1308/2013 shall be calculated each year on the basis of the value of the marketed production during the reference period of the producers who are members of the producer organisation or association of producer organisations on 1 January of the year for which the aid is requested.

3. As an alternative to the method set out in paragraph 2, for non-transnational producer organisations or associations of producer organisations, Member States may decide to use the actual value of the marketed production in the reference period concerned of the producer organisation or association of producer organisations in question. In that case, the rule shall apply to all non-transnational producer organisations and associations of producer organisations in that Member State.

▼ M2

4. Where a reduction of at least 35 % in the value of a product has occurred due to reasons falling outside the responsibility and control of the producer organisation, the value of marketed production of that product shall be deemed to represent 65 % of its value in the previous reference period. The producer organisation shall prove to the competent authority of the Member State concerned that those reasons were falling outside its responsibility and control.

Where a reduction of at least 35 % in the value of a product has occurred due to plant diseases or pest infestations falling outside the responsibility and control of the producer organisation, the value of marketed production of that product shall be deemed to represent 85 % of its value in the previous reference period. The producer organisation shall prove to the competent authority of the Member State concerned that it has taken the necessary preventive measures against the plant disease or pest infestation concerned.

This paragraph shall also apply for the purpose of determining compliance with the minimum value of marketed production as provided for in Article 9.

▼ B

5. Where historical data on marketed production for newly recognised producer organisations is insufficient for the purpose of the application of paragraph 1, the value of marketed production shall be the value of marketable production provided by the producer organisation for the purposes of recognition.

*Article 24***Accounting**

Member States shall ensure that producer organisations comply with the national standards of cost-based accounting that allow independent auditors to promptly identify, check and certify their expenditure and revenue.

Section 2

Operational funds*Article 25***Financing of operational funds**

1. The financial contributions to the operational fund referred to in Article 32(1)(a) of Regulation (EU) No 1308/2013 shall be determined by the producer organisation or association of producer organisations.

2. All producer members or member organisations shall have the opportunity to benefit from the operational fund and to participate democratically in decisions concerning the use of the operational fund of the producer organisation or association of producer organisations and of the financial contributions to the operational fund.

3. The statutes of a producer organisation or rules of association of an association of producer organisations shall require its producer members or member organisations to pay the financial contributions in accordance with its statutes or rules of association for the establishment and replenishment of the operational fund provided for in Article 32 of Regulation (EU) No 1308/2013.

*Article 26***Notification of estimated amount**

1. Producer organisations and associations of producer organisations shall notify the Member State, which has granted the recognition, of the estimated amounts of Union financial assistance and of the contribution, of its members and of the producer organisation or association itself, to the operational funds for the following year, by 15 September at the latest, together with the operational programmes or any request for approval of amendments to an existing operational programme.

However, Member States may set a later date than 15 September.

2. The calculation of the estimated amount of operational funds shall be based on the operational programmes and the value of marketed production. The calculation shall be split between expenditure for crisis prevention and management measures and other measures.

Section 3**Operational programmes***Article 27***National strategy**

1. The national strategy referred to in Article 36(2) of Regulation (EU) No 1308/2013, including the national framework referred to in Article 36(1) of that Regulation shall be established prior to the annual submission of the draft operational programmes. The national framework shall be integrated into the national strategy after having been submitted to the Commission and, where applicable, after having been amended in accordance with the second subparagraph of Article 36(1) of Regulation (EU) No 1308/2013.

The national strategy may be subdivided into regional elements.

2. In addition to the elements referred to in Article 36(2) of Regulation (EU) No 1308/2013, the national strategy shall integrate all the decisions taken and provisions adopted by the Member State for the purposes of Articles 152 to 165 of Regulation (EU) No 1308/2013.

3. An analysis of the initial situation shall form part of the process of drawing up the national strategy and be carried out under responsibility of the Member State.

It shall identify and assess the priority needs, the objectives, the results expected and the quantified targets against the initial situation.

It shall also lay down the instruments and actions to attain those objectives.

4. Member States shall monitor and evaluate the national strategy and its implementation through operational programmes.

The national strategy may be amended prior to the annual submission of the draft operational programmes.

▼B

5. Member States shall set out in the national strategy the maximum percentages of the operational fund which may be spent on any individual measure or type of action in order to ensure a balance between different measures.

*Article 28***National framework for environmental actions**

In addition to the submission of the proposed framework referred to in the second subparagraph of Article 36(1) of Regulation (EU) No 1308/2013, Member States shall notify the Commission of any amendments to the national framework, which shall be subject to the procedure set out in that subparagraph.

The Commission shall make the national framework available to other Member States by the means that it considers appropriate.

*Article 29***Complementary Member State rules**

Member States may adopt rules complementing Regulation (EU) No 1308/2013, this Regulation and Implementing Regulation (EU) 2017/892 concerning the eligibility of measures, actions or expenditure under operational programmes.

*Article 30***Relationship with rural development, State aid and promotion programmes**

1. Where support under the Member State's rural development programme or programmes has been granted to operations which are identical to actions that would be potentially eligible under Regulation (EU) No 1308/2013, that Member State shall ensure that a beneficiary may receive support for a given action only under one scheme.

Where a Member State includes such operations in its rural development programme or programmes, it shall ensure that the national strategy indicates the safeguards, provisions and checks put in place to avoid double funding of the same action or operation.

▼M1

2. Producer organisations or associations of producer organisations which have been granted the support provided in Article 27 of Regulation (EU) No 1305/2013 or Article 19 of Commission Regulation (EU) No 702/2014⁽¹⁾ may implement an operational programme in the same period provided that the Member State concerned ensures that the beneficiaries receive support for any given action only under one scheme.

▼B

3. Where applicable, and without prejudice to Article 34(1) and (3) and Article 35 of Regulation (EU) No 1308/2013, the level of support for measures covered by that Regulation shall not exceed the level applicable for the measures under the rural development programme.

⁽¹⁾ Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 193, 1.7.2014, p. 1).

▼B

4. Support for environmental actions that are identical to agri-environment-climate or organic farming commitments as referred to in Articles 28 and 29 of Regulation (EU) No 1305/2013 respectively, shall be limited to the maximum amounts laid down in Annex II to that Regulation for agri-environment-climate payments or for organic farming payments. Those amounts may be increased in duly substantiated cases taking account of specific circumstances to be justified in the national strategy and in the operational programmes of the producer organisations.

5. Paragraph 4 shall not apply to environmental actions which do not relate directly or indirectly to a particular parcel.

6. Where producer organisations, associations of producer organisations or interbranch organisations benefit from promotion programmes approved under Regulation (EU) No 1144/2014 of the European Parliament and of the Council ⁽¹⁾, Member States shall ensure that a beneficiary may receive support for a given action only under one scheme.

*Article 31***Eligibility of actions under operational programmes**

1. Operational programmes shall not include actions or expenditure listed in Annex II. A non-exhaustive list of eligible actions is set out in Annex III.

2. Expenditure under operational programmes eligible for aid shall be restricted to the actual costs incurred. However, Member States may fix standard flat rates or scales of unit costs in the following cases:

- (a) where such standard flat rates or scales of unit costs are referred to in Annex III;
- (b) for additional per-kilometre external transport costs, compared to road haulage costs, incurred when using rail or ship transport as part of a measure to respect the environment.

In addition, Member States may decide to use differentiated scales of unit costs to take into account regional or local specificities.

Member States shall review the standard flat rates or scales of unit costs at least every five years.

3. Member States shall ensure that the relevant calculations are adequate and accurate and established in advance on the basis of a fair, equitable and verifiable calculation. To that end Member States shall:

⁽¹⁾ Regulation (EU) No 1144/2014 of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries and repealing Council Regulation (EC) No 3/2008 (OJ L 317, 4.11.2014, p. 56).

▼B

- (a) ensure that a body, that is functionally independent from the authorities responsible for the programme implementation and possesses the appropriate expertise, performs the calculations or confirms the adequacy and accuracy of the calculations;
- (b) keep all the documentary evidence concerning the establishment of standard flat rates or scales of unit costs and their review.

4. In order for an action to be eligible, products for which the producer organisation is recognised shall account for more than 50 % of the value of the products covered by that action. In addition, the products concerned shall come from the producer organisation's members or producer members of another producer organisation or association of producer organisations. Articles 22 and 23 shall apply *mutatis mutandis* to the calculation of the value.

5. Investments in physical assets shall entail the following commitments:

- (a) without prejudice to paragraph 4, the physical assets acquired shall be used in accordance with their intended use, as described in the approved operational programme concerned;
- (b) without prejudice to the third and fourth subparagraphs of paragraph 6, the physical assets acquired shall remain both in the property and possession of the beneficiary until either the end of the fiscal depreciation period of the physical asset or for 10 years, whichever period is shorter. The beneficiary shall also ensure the maintenance of the physical asset during that period. However, where the investment is made on ground rented under particular national property rules, the requirement of being in the property of the beneficiary may not apply provided that the investments have been in the possession of the beneficiary at least for the period required in the first sentence of this point;
- (c) where the producer organisation is the owner and the member of the producer organisation is the holder of the physical asset to which the investment relates, the producer organisation shall have access rights to that asset for the duration of the fiscal depreciation period.

However, for the purposes of point (b) of the first subparagraph, Member States may provide that a period different to that of the fiscal depreciation period shall apply. Such period shall be indicated and duly justified in their national strategy and cover at least the period referred to in Article 71(1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽¹⁾.

⁽¹⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

▼B

6. ►**M1** Investments, including those under leasing contracts, may be financed through the operational fund in one amount or in instalments that were approved in the operational programme. ◀ Member States may approve amendments to the operational programme providing for a new distribution of the instalments in duly justified cases.

If the fiscal depreciation period of an investment exceeds the length of the operational programme, it may be carried over to a subsequent operational programme.

Where investments are replaced, the residual value of the investments replaced shall be:

- (a) added to the operational fund of the producer organisation; or
- (b) subtracted from the cost of the replacement.

If the investment is sold before the end of the period referred to in paragraph 5 but it is not replaced, the Union aid paid to finance the investment shall be recovered and reimbursed to the European Agricultural Guarantee Fund (EAGF) in proportion to the number of full years that remain until the end of the depreciation period referred to in point (b) of the first subparagraph of paragraph 5.

7. Actions, including investments, may be implemented on individual holdings or premises of producer members of the producer organisation, association of producer organisations or their subsidiaries complying with the 90 % requirement as referred to in Article 22(8), including where the actions are outsourced to members of the producer organisation or association of producer organisations, provided that they contribute to the objectives of the operational programme.

If the producer member leaves the producer organisation, Member States shall ensure that the investment or its residual value is recovered by the producer organisation and in the latter case, added to the operational fund.

However, in duly justified circumstances, Member States may provide that the producer organisation shall not be required to recover the investment or its residual value.

8. Actions, including investments, related to the transformation of fruit and vegetables into processed fruit and vegetables may be eligible for support where such actions and investments pursue the objectives set out in Article 33(1) of Regulation (EU) No 1308/2013, including those referred to in Article 160 of that Regulation, and provided that they are identified in the national strategy referred to in Article 36 of Regulation (EU) No 1308/2013.

9. Investments in intangible assets may be eligible for support where such investments pursue the objectives set out in Article 33(1) of Regulation (EU) No 1308/2013, including those referred to in Article 160 of that Regulation, and provided that they are identified in the national strategy referred to in Article 36 of Regulation (EU) No 1308/2013.



Article 32

Operational programmes of associations of producer organisations

1. Member States may authorise that producer members of associations of producer organisations which are not producer organisations, but which are members of such associations pursuant to Article 20, finance the measures implemented by the association of producer organisations in proportion to the contribution of member producer organisations.
2. Articles 30, 31, 33 and 34 of this Regulation and Articles 4 to 7 of Implementing Regulation (EU) 2017/892 shall apply *mutatis mutandis* to operational programmes of associations of producer organisations. However, a balance between the activities referred to in Article 4(1)(b) of Implementing Regulation (EU) 2017/892 shall not be required in respect of partial operational programmes of associations of producer organisations.
3. The ceiling for the crisis management and prevention expenditure, referred to in the fourth subparagraph of Article 33(3) of Regulation (EU) No 1308/2013, under the operational programmes of associations of producer organisations shall be calculated at the level of each member producer organisation.

Article 33

Decision

1. Member States shall:
 - (a) approve amounts of operational funds and operational programmes which meet the requirements of Regulation (EU) No 1308/2013 and those of this Chapter;
 - (b) approve the operational programmes, on condition that certain amendments are accepted by the producer organisation; or
 - (c) reject the operational programmes or parts thereof.
2. Member States shall take decisions on operational programmes and operational funds by 15 December of the year in which they are submitted.

Member States shall notify the producer organisations of those decisions by 15 December.

However, for duly justified reasons, such decisions may be taken after that date, but no later than 20 January following the date of submission. The approval decision may provide that expenditure is eligible from 1 January of the year following the submission.

Article 34

Amendments to operational programmes

1. Producer organisations may request amendments to operational programmes, including their duration, for subsequent years. Member States shall set deadlines for the submission and approval of such requests so that the approved amendments apply as from 1 January of the following year.

▼B

For duly justified reasons, such requests may be approved after the deadlines set by Member States, but no later than 20 January following the year of the request. The approval decision may provide that expenditure is eligible from 1 January following the year of the request.

2. Member States may authorise amendments to operational programmes during the year, under conditions to be determined by them. The decisions on those amendments shall be taken by 20 January of the year following the year on which amendments are requested.

Producer organisations may be authorised by Member States, during the year to:

- (a) implement their operational programmes in part only;
- (b) change the content of the operational programmes;
- (c) increase the amount of the operational fund by a maximum of 25 %, and decrease it by a percentage to be fixed by Member States, of the amount initially approved, provided that the overall objectives of the operational programme are maintained;
- (d) add national financial assistance to the operational fund in case of application of Article 53.

Member States shall determine the conditions under which operational programmes may be amended during the year without prior approval by the competent authority of the Member State. Those amendments shall only be eligible for aid if they are notified by the producer organisation to the competent authority without delay.

Member States may modify the percentages referred to in point (c) of the second subparagraph in case of mergers of producer organisations as referred to in Article 15(1).

3. Requests for amendments shall be accompanied by supporting documents giving the reason, nature and implications of the changes.

Section 4

Aid

Article 35

Advance payments

1. Member States may permit producer organisations to apply for an advance payment of a part of the aid. That advance payment shall correspond to the forecast expenditure resulting from the operational programme during the three or four-month period starting in the month in which the application for an advance payment is submitted.

Member States shall provide for conditions to ensure that financial contributions to the operational fund have been levied in accordance with Articles 24 and 25 and previous advance payments and the corresponding producer organisation contribution have actually been spent.

▼B

2. Applications for the release of securities may be submitted during the current programme year and shall be accompanied by supporting documents, such as invoices and documents proving that payment has been made.

Securities shall be released in respect of up to 80 % of advances paid.

3. In the event of failure to comply with the operational programmes or of serious failure to meet the obligations provided for in Article 5(b) and (c) of Implementing Regulation (EU) 2017/892 the security shall be forfeited, without prejudice to other administrative penalties to be applied in accordance with Section 3 of Chapter V of this Title.

In the event of failure to comply with other requirements, the security shall be forfeited in proportion to the gravity of the irregularity that has been established.

*Article 36***Cessation of an operational programme and discontinuity of recognition**

1. If a producer organisation or association of producer organisations ceases to implement its operational programme before the end of its scheduled duration, no further payments shall be made to that organisation or association for actions implemented after the date of cessation.

2. Aid received for eligible actions carried out before the cessation of the operational programme shall not be recovered, provided that:

(a) the producer organisation or association of producer organisations complied with the recognition criteria and the objectives of the actions laid down in the operational programme have been fulfilled at the moment of cessation; and

(b) the investments financed with support from the operational fund are maintained in the possession of and used by the producer organisation, association of producer organisations or its subsidiaries complying with the 90 % requirement referred to in Article 22(8) or its members at least until the end of their depreciation period as referred to in Article 31(5). Otherwise, the Union financial assistance paid to finance those investments shall be recovered and reimbursed to the EAGF.

3. Union financial assistance for multiannual commitments, such as environmental actions, where their long term objectives and expected benefits cannot be realised because of the interruption of the measure shall be recovered and reimbursed to the EAGF.

4. This Article shall apply *mutatis mutandis* in case of voluntary discontinuity of recognition, withdrawal of recognition or dissolution of the producer organisation or association of producer organisations.

5. Unduly paid aid shall be recovered in accordance with Article 67.

▼B*CHAPTER III**Crisis prevention and management measures*

Section 1

General provisions*Article 37***Selection of crisis prevention and management measures**

Member States may provide that one or more of the measures listed in the first subparagraph of Article 33(3) of Regulation (EU) No 1308/2013 shall not apply in their territory.

*Article 38***Loans to finance crisis prevention and management measures**

Loans taken out to finance crisis prevention and management measures pursuant to the fifth subparagraph of Article 33(3) of Regulation (EU) No 1308/2013 may, on duly justified economic grounds, be carried over to a subsequent operational programme, if their repayment period exceeds the length of the operational programme.

Section 2

Investments making the management of the volumes placed on the market more efficient*Article 39***Investments related to the management of volumes**

1. Member States shall include in their national strategy the list of eligible investments aimed at making the management of volumes placed on the market more efficient as referred to in point (a) of the first subparagraph of Article 33(3) of Regulation (EU) No 1308/2013.

2. Before approving the operational programmes containing actions relating to the investments referred to in paragraph 1, Member States shall require justification that the proposed investment is suitable to effectively prevent or better withstand a crisis.

▼M1

Section 3

Support related to mutual funds*Article 40***Support related to mutual funds**

1. Member States shall adopt detailed provisions concerning support for the administrative cost of setting up mutual funds and the replenishment of mutual funds, as referred to in point (d) of the first subparagraph of Article 33(3) of Regulation (EU) No 1308/2013.

▼M1

2. The support for the administrative cost of setting up mutual funds referred to in paragraph 1 shall comprise both the Union financial assistance and the contribution from the producer organisation. The total amount of that support shall not exceed 5 %, 4 % or 2 % of the contribution of the producer organisation to the mutual fund in the first, second and third year of its operation, respectively.

3. A producer organisation may receive the support for the administrative cost of setting up mutual funds referred to in paragraph 1, only once and only within the three first years of the operation of the mutual fund. Where a producer organisation only asks for that support in the second or the third year of operation of the mutual funds, the support shall be 4 % or 2 % of the contribution of the producer organisation to the mutual fund in the second and third year of its operation, respectively.

4. Member States may fix ceilings for the amounts that may be received by a producer organisation as a support related to mutual funds.

▼B**Section 4****Replanting of orchards following mandatory grubbing-up***Article 41***Replanting of orchards**

1. Where Member States include in their national strategy the replanting of orchards, following mandatory grubbing-up for health or phytosanitary reasons as referred to in point (e) of the first subparagraph of Article 33(3) of Regulation (EU) No 1308/2013, the measures taken shall comply with Council Directive 2000/29/EC ⁽¹⁾.

2. Replanting of orchards shall not cover more than 20 % of the total expenditure under operational programmes. Member States may decide to set a lower percentage.

Section 5**Market withdrawals***Article 42***Scope**

This Section lays down rules concerning market withdrawals and free distribution as referred to respectively in point (f) of the first subparagraph of Articles 33(3) and 34(4) of Regulation (EU) No 1308/2013.

⁽¹⁾ Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1).



Article 43

Three-year average for market withdrawals for free distribution

1. The limit of 5 % of the volume of marketed production referred to in Article 34(4) of Regulation (EU) No 1308/2013 shall be calculated on the basis of an arithmetic mean of the overall volumes of products for which the producer organisation is recognised and which are marketed through the producer organisation during the three previous years.
2. For newly recognised producer organisations, the data for marketing years prior to recognition shall be:
 - (a) where the organisation was a producer group, the equivalent data for that producer group, where applicable; or
 - (b) the volume applicable to the application for recognition.

Article 44

Prior notification of withdrawal operations

1. Producer organisations and associations of producer organisations shall notify the competent authorities of the Member States in writing or by electronic means in advance of an intention to withdraw products.

Such notification shall specify, in particular, the list of products to be withdrawn and their principal characteristics according to the relevant marketing standards, the estimated quantity of each product concerned, their intended destination and the place where the withdrawn products may be inspected as provided for in Article 29 of Implementing Regulation (EU) 2017/892.

Notifications shall include a written statement attesting that the products to be withdrawn conform to the applicable marketing standards or minimum requirements referred to in Article 15 of Implementing Regulation (EU) 2017/892.

2. Member States shall lay down detailed rules for producer organisations and associations of producer organisations as regards notifications provided for in paragraph 1, in particular as regards time limits.

Article 45

Support

1. The support for market withdrawals, comprising both the Union financial assistance and the producer organisation contribution, shall be no more than the amounts set out in Annex IV.

For products not included in Annex IV, Member States shall set maximum amounts of support, comprising both the Union financial assistance and the producer organisation contribution, at a level not exceeding 40 % of the average market prices for the previous five years in case of free distribution and at a level not exceeding 30 % of the average of market prices for the previous five years for destinations other than free distribution.

▼B

Where the producer organisation has received compensation from third parties for withdrawn products, the support referred to in the first subparagraph shall be reduced by an amount equivalent to the compensation received. In order to be eligible for support, the products concerned shall not enter again the commercial market for fruit and vegetables.

2. Market withdrawals shall not exceed 5 % of the volume of the marketed production of any given product of any given producer organisation. However, amounts which are disposed of in one of the ways referred to in Article 34(4) of Regulation (EU) No 1308/2013 or any other way approved by Member States under Article 46(2) of this Regulation shall not be taken into account in that proportion.

The volume of marketed production referred to in the first subparagraph shall be the average of the volume of marketed production in the previous three years. If this information is not available, the volume of marketed production for which the producer organisation was recognised shall be used.

The percentage referred to in the first subparagraph shall be annual averages of a three year period including the year in question and the previous two years, with five percentage points of annual margin of overrun.

3. The Union financial assistance in case of market withdrawals of fruit and vegetables which are disposed of by way of free distribution to the charitable organisations and institutions referred to in Article 34(4) of Regulation (EU) No 1308/2013 shall only cover payment for the disposed products in accordance with paragraph 1 of this Article and the costs referred to in Articles 16(1) and 17(1) of Implementing Regulation (EU) 2017/892.

*Article 46***Destinations for withdrawn products**

1. Member States shall lay down the permissible destinations for products withdrawn from the market. They shall adopt provisions to ensure that no negative impact on the environment nor any negative phytosanitary consequences result from the withdrawal or its destination.

2. The destinations referred to in paragraph 1 shall include free distribution within the meaning of Article 34(4) of Regulation (EU) No 1308/2013 and any other equivalent destinations approved by Member States.

Upon request, Member States may authorise the charitable organisations and institutions referred to in Article 34(4) of Regulation (EU) No 1308/2013 to ask for a contribution from the final recipients of products withdrawn from the market.

When the charitable organisations and institutions concerned have obtained the authorisation, they shall, in addition to the obligations under Article 47(1) of this Regulation, keep financial accounts for the operation in question.

▼B

Payment in kind by the beneficiaries of free distribution to processors of fruit and vegetables may be allowed, where such payment only compensates for processing costs and where the Member State in which the payment takes place has provided for rules ensuring that processed products are intended for consumption by the final recipients referred to in the second subparagraph.

Member States shall take all the necessary steps to facilitate contacts and cooperation between producer organisations and the charitable organisations and institutions referred to in Article 34(4) of Regulation (EU) No 1308/2013 they have approved.

3. Disposal of products to the processing industry shall be possible. Member States shall adopt detailed provisions to ensure that no distortion of competition occurs for the industries concerned within the Union or for imported products and that products withdrawn do not enter the commercial market again. The alcohol resulting from distillation shall be used exclusively for industrial or energy purposes.

*Article 47***Conditions for the recipients of withdrawn products**

1. The recipients of withdrawn products referred to in Article 34(4) of Regulation (EU) No 1308/2013 shall undertake to:

- (a) comply with the rules laid down in and pursuant to Regulation (EU) No 1308/2013;
- (b) keep separate stock records for the operations in question;
- (c) accept the checks provided for by Union law; and
- (d) provide the supporting documents on the final destination of each of the products concerned, in the form of a take-over certificate or equivalent document certifying that the withdrawn products have been taken over by a third party with a view to their free distribution.

Member States may decide that recipients do not have to keep records as referred to in point (b) of the first subparagraph, if they receive quantities below a maximum to be determined by them based on a documented risk analysis.

2. The recipients of withdrawn products for other destinations shall undertake to:

- (a) comply with the rules laid down in and pursuant to Regulation (EU) No 1308/2013;
- (b) keep separate stock records and financial accounts for the operations in question if the Member State considers it as necessary despite the fact that the product has been denatured before delivery;
- (c) accept the checks provided for by Union law; and

▼B

- (d) not request additional aid for the alcohol produced from the products concerned in the case of withdrawn products intended for distillation.

Section 6**Green harvesting and non-harvesting***Article 48***Conditions for the application of green harvesting and non-harvesting**

1. Green harvesting and non-harvesting as referred to in point (g) of the first subparagraph of Article 33(3) of Regulation (EU) No 1308/2013 shall be additional to and different from normal cultivation practices.
2. Fruit and vegetable plants having undergone green harvesting or non-harvesting shall not be used for further production purposes in the same growing season after the operation has taken place.
3. Green harvesting measures shall not be undertaken in respect of fruit and vegetables of which the normal harvest has already begun, and non-harvesting measures shall not be undertaken where commercial production has been taken from the area concerned during the normal production cycle.

The first subparagraph shall not apply where fruit and vegetable plants have a harvesting period exceeding one month. In such cases, the amounts referred to in paragraph 4 shall only compensate for the production to be harvested in the six weeks following the green harvesting and non-harvesting operation. Those fruit and vegetable plants shall not be used for further production purposes in the same growing season after the operation has taken place.

For the purposes of the second subparagraph, Member States may prohibit the application of green harvesting and non-harvesting measures if, in the case of green harvesting, a significant part of the normal harvest has been carried out and, in the case of non-harvesting, a significant part of the commercial production has already been taken. A Member State intending to apply this provision shall lay down in its national strategy the part it deems to be significant.

Green harvesting and non-harvesting shall not be applied for the same product and the same given area in any given year, except for the purposes of the second subparagraph where both operations may be applied simultaneously.

4. Support for green harvesting shall only cover the products which are physically on the fields and which are actually green harvested. Compensation amounts, comprising both the Union financial assistance and the producer organisation contribution for green harvesting and non-harvesting shall be per hectare payments set by the Member State under point (a) of the first paragraph of Article 49 at a level to cover not more than 90 % of the maximum support level for market withdrawals applicable to withdrawals for destinations other than free distribution as referred to in Article 34(4) of Regulation (EU) No 1308/2013.

▼B

5. Producer organisations and associations of producer organisations shall notify the competent authorities of the Member State in writing or by electronic means in advance of an intention of green harvesting or non-harvesting.

*Article 49***Obligations of the Member States**

Member States shall adopt:

- (a) detailed provisions on the implementation of the green harvesting and non-harvesting measures, including on prior notifications of green harvesting and non-harvesting, their content and deadlines, on the amount of compensation to be paid and on the application of the measures, as well as the list of products eligible under the measures;
- (b) provisions to ensure that no negative impact on the environment nor any negative phytosanitary consequences results from the implementation of the measures.

Member States shall check that the measures are carried out correctly, including in relation to the provisions referred to in points (a) and (b) of the first paragraph. If Member States find that the measures have not been carried out correctly, they shall not approve the application of the measures.

Section 7**Harvest insurance***Article 50***Objective of harvest insurance actions**

Actions relating to harvest insurance as referred to in point (h) of the first subparagraph of Article 33(3) of Regulation (EU) No 1308/2013 shall contribute to safeguarding producers' incomes and to covering market losses incurred by the producer organisation or its members where they are affected by natural disasters, climatic events and, where applicable, diseases or pest infestations.

*Article 51***Implementation of harvest insurance actions**

1. Member States shall adopt detailed provisions on the implementation of harvest insurance actions, including provisions necessary to ensure that harvest insurance actions do not distort competition in the insurance market.

2. Member States may grant additional national financing to support harvest insurance actions which are benefiting from the operational fund. However, total public support for harvest insurance shall not exceed:

▼B

- (a) 80 % of the cost of the insurance premiums paid for by producers for insurance against losses as a result of adverse climatic events which can be assimilated to natural disasters;
- (b) 50 % of the cost of the insurance premiums paid for by producers for insurance against:
 - (i) losses referred to in point (a) and against other losses caused by adverse climatic events; and
 - (ii) losses caused by animal or plant diseases or pest infestations.

The limit set out in point (b) of the first subparagraph shall apply even in cases where the operational fund is otherwise eligible for 60 % Union financial assistance pursuant to Article 34(3) of Regulation (EU) No 1308/2013.

3. Harvest insurance actions shall not cover insurance payments which compensate producers for more than 100 % of the income loss suffered, taking into account any compensation the producers obtain from other support schemes related to the insured risk.

▼M1**Section 8****Support related to coaching***Article 51a***Implementation of coaching measures**

1. For the purposes of Article 33(3)(i) of Regulation (EU) No 1308/2013, the following coaching measures shall be eligible for support:

- (a) exchange of best practices related to crisis prevention and management measures referred to in Article 33(3) of Regulation (EU) No 1308/2013, helping recognised producer organisations, producer groups or individual producers to benefit from experience with implementation of crisis prevention and management measures;
- (b) promoting the setting-up of new producer organisations, merging existing ones or enabling individual producers to join an existing producer organisation;
- (c) creating networking opportunities for coaching providers and recipients, to strengthen in particular marketing channels as a means of crisis prevention and management.

2. The coaching provider shall be the association of producer organisations or the producer organisation. The coaching provider shall be the beneficiary of the support for coaching measures.

▼ M1

3. The coaching recipient shall be a recognised producer organisation or a producer group located in regions with an organisation rate lower than 20 %, for the three consecutive years preceding the implementation of the operational programme.

Individual producers, non-members of a producer organisation or their associations, may be coaching recipients even if they are located in regions with organisation rate above 20 %.

4. The expenditure related to coaching shall be part of the crisis prevention and management measures of the operational programme referred to in Article 33(3) of Regulation (EU) No 1308/2013.

Eligible costs related to coaching are listed in Annex III to this Regulation.

All costs identified in Annex III shall be paid to the coaching provider.

5. Coaching measures shall not be outsourced.

▼ B*CHAPTER IV**National financial assistance***▼ M1***Article 52***Conditions for the application of national financial assistance**

1. For the purposes of Article 35(1) of Regulation (EU) No 1308/2013, the degree of organisation of producers in a region of a Member State shall be calculated on the basis of the value of fruit and vegetables produced in the region concerned and marketed by:

- (a) recognised producer organisations and associations of producer organisations; and
- (b) producer groups recognised in accordance with Article 125e of Regulation (EC) No 1234/2007 or producer organisations and producer groups recognised in accordance with Article 27 of Regulation (EU) No 1305/2013.

For the purpose of the calculation, the value established as referred to in the first subparagraph shall be divided by the total value of the fruit and vegetables produced in that region.

2. The value of fruit and vegetables produced in the region concerned and marketed by the organisations, associations and groups referred to in points (a) and (b) of the first subparagraph of paragraph 1 shall only include those products for which those organisations, associations and groups are recognised. Article 22 shall apply *mutatis mutandis*.

For the calculation of the total value of the fruit and vegetables produced in that region, the methodology set out in Annex I to Regulation (EC) No 138/2004 of the European Parliament and of the Council ⁽¹⁾ shall apply *mutatis mutandis*.

⁽¹⁾ Regulation (EC) No 138/2004 of the European Parliament and of the Council of 5 December 2003 on the economic accounts for agriculture in the Community (OJ L 33, 5.2.2004, p. 1).

▼ M1

3. Only fruit and vegetables produced in the region referred to in paragraph 4 shall benefit from national financial assistance.

4. Member States shall define the regions as a distinct part of their territory in accordance with objective and non-discriminatory criteria, such as their agronomic and economic characteristics and their regional agricultural/fruit and vegetable potential, or their institutional or administrative structure and for which data are available in order to calculate the degree of organisation referred to in paragraph 1.

The regions defined by a Member State shall not be amended at least for five years unless such amendment is objectively justified, in particular for reasons that are not related to the calculation of the degree of organisation of producers in the region or regions concerned.

5. Before granting national financial assistance, Member States shall notify the Commission of the list of the region(s) that meet the criteria referred to in paragraphs (1) and (2) of Article 35 of Regulation (EU) No 1308/2013, and of the amount of national financial assistance to be granted to the producer organisations in those regions.

Member States shall notify the Commission of any amendment of the region(s) that meet the criteria referred to in paragraphs (1) and (2) of Article 35 of Regulation (EU) No 1308/2013.

▼ B*Article 53***Amendments to the operational programme**

A producer organisation wishing to apply for national financial assistance shall, if necessary, amend its operational programme pursuant to Article 34.

*CHAPTER V***General provisions****Section 1****Notifications and reports***Article 54***Member States' notifications concerning producer organisations, associations of producer organisations and producer groups**

Member States shall notify the Commission of the following information and documents:

▼B

- (a) by 31 January each year, the total amount of the operational funds approved that year for all operational programmes. This notification shall show the total amount of the operational funds and the total amount of Union financial assistance granted included in those funds. Those figures shall be further broken down between amounts for crisis prevention and management measures and other measures;

- (b) by 15 November each year, an annual report on producer organisations and associations of producer organisations, as well as on producer groups formed pursuant to Article 125e of Regulation (EC) No 1234/2007, and operational funds, operational programmes and recognition plans in operation during the previous year. This annual report shall contain the information set out in Annex V to this Regulation;

- (c) by 31 January each year, the amounts corresponding to each forthcoming annual period of implementation of the recognition plans of producer groups formed pursuant to Article 125e of Regulation (EC) No 1234/2007, including the current implementing year. Approved or estimated amounts shall be provided. This notification shall include the following information for each producer group and each annual forthcoming period of implementation of the plan:
 - (i) the total amount for the annual period of implementation of the recognition plan, the Union financial assistance and the contributions from the Member States, the producer groups and the members of the producer groups;

 - (ii) a breakdown between the aid granted pursuant to Article 103a(1)(a) and (b) of Regulation (EC) No 1234/2007, respectively.

*Article 55***Member States' notifications concerning producer prices of fruit and vegetables on the internal market**

1. Member States shall notify the Commission, by 12.00 hours (Brussels time) each Wednesday of the weighted average recorded prices for fruit and vegetables listed in Annex VI during the previous week, where data are available.

For fruit and vegetables covered by the general marketing standard set out in Part A of Annex I to Implementing Regulation (EU) No 543/2011, only prices of products meeting that standard shall be notified, whereas prices for products covered by a specific marketing standard set out in Part B of that Annex shall only concern products of class I.

▼B

Member States shall notify a single weighted average price corresponding to the types and varieties of products, sizes and presentations specified in Annex VI to this Regulation. Where recorded prices concern other types, varieties, sizes or presentations than those specified in that Annex, Member States shall notify the Commission of the types, varieties, sizes and presentations of the products to which prices correspond.

Notified prices shall be ex-packaging station, sorted, packaged and, where applicable, on pallets, expressed in euro per 100 kilograms net weight.

2. Member States shall identify representative markets in the production area of the fruit and vegetables concerned. Member States shall notify the Commission of the representative markets and their weight in the average with the first notification or when they modify them. Member States may notify other prices on a voluntary basis.

Section 2

Monitoring and evaluation of operational programmes and of national strategies**▼M1***Article 56***Indicators**

1. The operational programmes and the national strategies shall be subject to monitoring and evaluation aimed at assessing the progress made in achieving the objectives set in the operational programmes, as well as their efficiency and the effectiveness in relation to those objectives.

2. Progress, efficiency and effectiveness referred to in paragraph 1 shall be assessed throughout the implementation of the operational programme on the basis of indicators, set out in Section 4 of Annex II to Implementing Regulation (EU) 2017/892, relating to actions and measures implemented by recognised producer organisations, associations of producer organisations, transnational associations of producer organisations and producer groups during the operational programmes.

▼B*Article 57***Monitoring and evaluation procedures in relation to operational programmes**

1. Producer organisations and associations of producer organisations shall establish a system to collect, record and maintain information for the compilation of the applicable indicators for the monitoring and evaluation of the operational programmes.

2. The monitoring exercise shall be carried out in such a way that its results:

- (a) verify the quality of programme implementation;
- (b) identify any need for adjustments or review of the operational programme;

▼ M1

(c) provide information for reporting requirements.

▼ B

3. Evaluation shall take the form of a report in the last but one year of the implementation of the operational programme as referred in Article 21(4) of Implementing Regulation (EU) 2017/892.

▼ M1

The evaluation exercise shall examine the progress made in relation to the overall objectives of the programme, based on indicators set out in Section 4 of Annex II to Implementing Regulation (EU) 2017/892.

▼ B

Where applicable, the evaluation exercise shall include a qualitative assessment of the results and the impact of the environmental actions aimed at:

- (a) the prevention of soil erosion;
- (b) a reduction in the use or better management of plant protection products;
- (c) the protection of habitats and biodiversity; and
- (d) landscape conservation.

The results of the exercise shall be used to:

- (a) improve the quality of the operational programme;
- (b) identify any need for substantive change of the operational programme; and
- (c) draw lessons useful in improving future operational programmes.

▼ M1

The evaluation report shall be attached to the corresponding annual report referred to in Article 21 of the Implementing Regulation (EU) 2017/892.

▼ B

Article 58

Monitoring and evaluation procedures in relation to the national strategy

1. Member States shall establish a system to collect, record and maintain information in electronic form adequate for the purpose of compiling the indicators referred to in Article 56. To this end, they shall use the information transmitted by the producer organisations and associations of producer organisations in relation to the monitoring and the evaluation of their operational programmes.

2. Monitoring shall be ongoing in order to assess the progress made towards achieving the objectives of the operational programmes. For this purpose, use shall be made of the information provided in the annual reports transmitted by the producer organisations and associations of producer organisations. The monitoring exercise shall be carried out in such a way that its results:

▼B

- (a) verify the quality of the implementation of the operational programmes;
- (b) identify any need for adjustments or review of the national strategy aimed at achieving the goals set for the strategy or at improving the management of the strategy implementation, including the financial management of the operational programmes.

3. Evaluation shall be aimed at assessing the progress made towards the overall objectives of the strategy. For this purpose, use shall be made of the results of the monitoring and evaluation of the operational programmes as indicated in the annual and last but one annual reports transmitted by the producer organisations. The results of the evaluation exercise shall be used to:

- (a) improve the quality of the strategy;
- (b) identify any need for substantive change of the strategy.

The evaluation shall include an evaluation exercise carried out in 2020. Its results shall be part of the same year annual national report referred to in Article 54(b). The report shall examine the degree of utilisation of financial resources, the efficiency and effectiveness of the operational programmes implemented, and assess the effects and impact of those programmes, in relation to the objectives, targets and measures set by the strategy and, where applicable, other objectives set in Article 33(1) of Regulation (EU) No 1308/2013.

Section 3

Administrative penalties

Article 59

Non-respect of recognition criteria

1. If a Member State has established that a producer organisation fails to respect one of the recognition criteria linked to the requirements of Articles 5 and 7, Article 11(1) and (2) and Article 17, it shall send to the producer organisation in question no later than two months after the failure has been identified, by registered delivery, a warning letter stating the failure identified, the corrective measures required and the time periods within which these measures have to be taken, which shall not exceed four months. As from the moment a failure is established, Member States shall suspend payments of aid until the corrective measures are taken to their satisfaction.

2. A failure to take the corrective measures referred to in paragraph 1 within the time period fixed by the Member State shall lead to the suspension of the recognition of the producer organisation. The Member State shall notify the producer organisation of the period of suspension, which shall start immediately after the expiry of the time period fixed for taking those corrective measures and shall not exceed 12 months from the date of the receipt of the warning letter by the producer organisation. This is without prejudice to the application of horizontal national legislation which may provide for the suspension of such an action following the commencement of connected legal proceedings.

▼B

During the suspension of the recognition, the producer organisation may continue its activity, but aid payments shall be withheld until the suspension of the recognition is lifted. The yearly aid amount shall be reduced by 2 % for each calendar month or part thereof during which recognition is suspended.

The suspension shall end on the day of the check which confirms that the recognition criteria in question have been fulfilled.

3. If the criteria are not fulfilled by the end of the period of suspension set by the competent authority of the Member State, the Member State shall withdraw the recognition with effect from the date from which the conditions for recognition were not fulfilled, or, if it is not possible to identify that date, from the date when the failure was established. This is without prejudice to the application of horizontal national legislation which may provide for the suspension of recognition following the commencement of connected legal proceedings. Outstanding aid concerning the period during which the failure has been identified shall not be paid and unduly paid aid shall be recovered.

4. If a Member State has established that a producer organisation fails to respect any of the recognition criteria laid down in Article 154 of Regulation (EU) No 1308/2013 other than those mentioned in paragraph 1, it shall send to the producer organisation in question, no later than two months after the failure has been established, by registered delivery, a warning letter stating the failure identified, the corrective measures required and the time periods within which these measures have to be taken, which shall not exceed four months.

5. A failure to take the corrective measures referred to in paragraph 4 within the time period fixed by the Member State shall lead to a suspension of payments and a reduction of the yearly aid amount by 1 % for each calendar month, or part thereof, following the expiry of that time period. This is without prejudice to the application of horizontal national legislation which may provide for the suspension of such an action following the commencement of connected legal proceedings.

6. Member States shall withdraw recognition if the producer organisation does not prove compliance with the minimum volume or value of marketed production criteria as required by Article 154(1)(b) of Regulation (EU) No 1308/2013 by 15 October of the second year following the year in which those criteria were not complied with. Withdrawal shall take effect from the date from which the conditions for recognition were not fulfilled, or, if it is not possible to identify that date, from the date when the failure was established. Outstanding aid concerning the period during which the failure has been identified shall not be paid and unduly paid aid shall be recovered.

However, when a producer organisation delivers to the Member State proof that due to natural disasters, adverse climatic events, diseases or pest infestations, despite having undertaken the risk prevention measures it is not able to respect the recognition criteria laid down in Article 154(1)(b) of Regulation (EU) No 1308/2013 in respect of the minimum volume or value of marketable production laid down by Member States, the Member State may, for the year in question, derogate from the minimum volume or value of marketable production for this producer organisation.

▼B

7. In cases where paragraphs 1, 2, 4 and 5 apply, Member States may make payments after the deadline set out in Article 10 of Implementing Regulation (EU) 2017/892. However, these payments shall not be made later than 15 October of the second year following the year of implementation of the programme.

8. Paragraphs 1 to 5 shall apply *mutatis mutandis* in cases of failure by a producer organisation to provide the Member State with the information required under Article 21 of Implementing Regulation (EU) 2017/892.

*Article 60***Fraud**

1. Member States shall suspend payments to and the recognition of a producer organisation or an association of producer organisations, which are under investigation by a national authority in connection with a charge of fraud in respect of aid covered by Regulation (EU) No 1308/2013, until the charge has been determined.

2. Where a producer organisation or an association of producer organisations has committed fraud in respect of aid covered by Regulation (EU) No 1308/2013, Member States shall, without prejudice to any other penalties applicable under Union and national legislation:

- (a) withdraw the recognition of that organisation or association;
- (b) exclude the actions concerned from support under the operational programme concerned and recover any aid already paid with respect to those actions; and
- (c) exclude that organisation or association from recognition during the following year.

*Article 61***Penalty for ineligible amounts**

1. Payments shall be calculated on the basis of eligible actions.

2. The Member State shall examine the aid application, and establish the amounts that are eligible for support. It shall establish the amount that:

- (a) would be payable to the beneficiary based solely on the application;
- (b) is payable to the beneficiary after an examination of the eligibility of the application.

3. If the amount established pursuant to paragraph 2(a) exceeds the amount established pursuant to paragraph 2(b) by more than 3 %, a penalty shall be applied. The amount of the penalty shall be the difference between the amounts calculated pursuant to paragraph 2(a) and (b). However, no penalty shall be applied if the producer organisation is able to demonstrate that it is not responsible for the inclusion of the ineligible amount.

▼B

4. Paragraphs 2 and 3 shall apply *mutatis mutandis* to ineligible expenditure identified during on-the-spot or subsequent checks.
5. If the value of marketed production is declared and checked before the application for aid, the declared and approved values shall be used when establishing the amounts pursuant to paragraph 2(a) and (b), respectively.
6. Where at the end of the operational programme, the conditions referred to in Article 33(5)(b) of Regulation (EU) No 1308/2013 have not been complied with, the total amount of support for the last year of the operational programme shall be reduced in proportion to the amount of expenditure not incurred on environmental actions.

*Article 62***Administrative penalties following first-level checks on withdrawal operations**

1. If, following the check referred to in Article 29 of Implementing Regulation (EU) 2017/892, non-compliances are found with regard to the marketing standards or the minimum requirements referred to in Article 15 of Implementing Regulation (EU) 2017/892, exceeding the established tolerances, the producer organisation concerned shall be required to pay a penalty calculated according to the proportion of the withdrawn products not complying:
- (a) where those quantities are less than 10 % of the quantities actually withdrawn pursuant to Article 44 of this Regulation, the penalty shall be equal to the Union financial assistance, calculated on the basis of the quantities of the non-complying withdrawn products;
 - (b) where those quantities are between 10 % and 25 % of the quantities actually withdrawn, the penalty shall be double the amount of the Union financial assistance, calculated on the basis of the quantities of the non-complying withdrawn products; or
 - (c) where those quantities exceed 25 % of the quantity actually withdrawn, the penalty shall be equal to the amount of the Union financial assistance for the entire quantity notified pursuant to Article 44 of this Regulation.
2. The penalties referred to in paragraph 1 shall apply without prejudice to any penalty applied pursuant to Article 61.

*Article 63***Administrative penalty applicable to producer organisations regarding withdrawal operations**

Expenditure for withdrawal operations shall not be eligible if the products have not been disposed of as provided for by the Member State under Article 46(1) or if the operation had a negative impact on the environment or any negative phytosanitary consequences, without prejudice to any penalty applied pursuant to Article 61.

*Article 64***Administrative penalties applicable to recipients of products withdrawn from the market**

Where irregularities attributable to the recipients of products withdrawn from the market are detected during checks made in accordance with Articles 29 and 30 of Implementing Regulation (EU) 2017/892, those recipients:

- (a) shall be excluded from the right to receive products withdrawn from the market; and
- (b) shall be required to pay the value of the products they received plus the related sorting, packaging and transport costs in accordance with the rules laid down by the Member States.

The exclusion provided for in point (a) of the first paragraph shall take effect immediately and last for at least one year with a possibility of extension.

*Article 65***Administrative penalties in relation to green harvesting and non-harvesting**

1. If the producer organisation has not fulfilled its obligations with regard to green harvesting, it shall pay by way of penalty the amount of the compensation relating to the areas for which the obligation has not been respected. A failure to fulfil obligations shall include cases where:

- (a) the area notified for green harvesting is not eligible for green harvesting;
- (b) the area is not totally harvested or the production not denatured;
- (c) there has been a negative impact on the environment or a negative phytosanitary consequence for which the producer organisation is responsible.

2. If the producer organisation has not fulfilled its obligations with regard to non-harvesting, it shall pay, by way of penalty, the amount of the compensation relating to the areas for which the obligation has not been respected. A failure to fulfil obligations shall include cases where:

- (a) the area notified for non-harvesting is not eligible for non-harvesting;
- (b) a harvest or partial harvest has nevertheless taken place;
- (c) there has been a negative impact on the environment or a negative phytosanitary consequence for which the producer organisation is responsible.

Point (b) of the first subparagraph of this paragraph shall not apply where the second subparagraph of Article 48(3) applies.

3. The penalties referred to in paragraphs 1 and 2 shall apply in addition to any penalty imposed pursuant to Article 61.



Article 66

Preventing an on-the-spot check

A request for recognition, approval of an operational programme or an aid application shall be rejected for the item or the part of expenditure concerned, if a producer organisation, including its members or relevant representatives, prevents an on-the-spot check from being carried out.

Article 67

Payment of recovered aid and penalties

1. Producer organisations and associations of producer organisations or other operators concerned shall reimburse unduly paid aid with interest and pay the penalties provided for in this Section.

The interest shall be calculated:

- (a) on the basis of the period elapsing between receipt of undue payment and its reimbursement by the beneficiary;
- (b) at the rate applied by the European Central Bank to its main refinancing operations published in the 'C' series of the *Official Journal of the European Union* and in force on the date on which the undue payment is made, plus three percentage points.

2. Aid recovered, interest and penalties imposed shall be paid to the EAGF.

CHAPTER VI

Extension of rules

Article 68

Conditions for the extension of rules

1. Article 164 of Regulation (EU) No 1308/2013 shall apply to products of the fruit and vegetables and processed fruit and vegetables sectors provided that the rules referred to in paragraph 4 of that Article:

- (a) have been in force for at least one year;
- (b) are made binding for no more than three years.

However, Member States may derogate from the condition laid down in point (a) of the first subparagraph of this paragraph where the aim of the rules to be extended is one of those referred to in points (a), (e), (f), (h), (i) (j), (m) and (n) of the first subparagraph of Article 164(4) of Regulation (EU) No 1308/2013.

2. The rules which are made binding on all producers in a specific economic area shall not apply to products delivered for processing under a contract signed before the beginning of the harvest, unless the extension of rules expressly covers such products, with the exception of the rules on market reporting referred to in point (a) of the first subparagraph of Article 164(4) of Regulation (EU) No 1308/2013.

▼B

3. Rules of producer organisations or associations of producer organisations may not be made binding on producers of organic products covered by Regulation (EC) No 834/2007 unless they have been agreed by at least 50 % of producers covered by that Regulation in the economic area in which the producer organisation or the association of producer organisations operates and that organisation or association covers at least 60 % of such production of that area.

4. The rules referred to in point (b) of the first subparagraph of Article 164(4) of Regulation (EU) No 1308/2013 shall not apply to products which were produced outside the specific economic area referred to in Article 164(2) of that Regulation.

*Article 69***National rules**

1. For the purposes of Article 164(2) of Regulation (EU) No 1308/2013, Member States may decide that the economic area that is taken into account in the case of extension of rules of an interbranch organisation is a region or the entire national territory where production and marketing conditions are homogenous.

2. For the purpose of determining representativeness of producer organisations and associations of producer organisations within the meaning of Article 164(3) of Regulation (EU) No 1308/2013, Member States shall lay down rules excluding:

- (a) producers whose production is intended essentially for direct sale to consumers on the holding or in the production area;
- (b) direct sales as referred to in point (a);
- (c) produce delivered for processing under a contract signed before the beginning of the harvest, unless the extended rules expressly cover such products;
- (d) producers or production of organic products covered by Regulation (EC) No 834/2007.

*Article 70***Notification of extension of rules and economic areas**

1. When a Member State notifies rules it has made binding for a given product and economic area pursuant to Article 164(6) of Regulation (EU) No 1308/2013, it shall immediately inform the Commission of:

- (a) the economic area in which those rules will apply;
- (b) the producer organisation, association of producer organisations or interbranch organisation which requested the extension of the rules and the data showing the compliance with Article 164(3) of Regulation (EU) No 1308/2013;

▼B

- (c) where the extension of rules is requested by a producer organisation or association of producer organisations, the number of producers who belong to that organisation or association and the total number of producers in the economic area concerned; such information shall be given in respect of the situation at the time when the request for extension is made;
- (d) where the extension of rules is requested by a producer organisation or association of producer organisations, the total production of the economic area and the production marketed by that organisation or association during the last year for which figures are available;
- (e) the date from which the rules to be extended have applied to the producer organisation, association of producer organisations or interbranch organisation concerned; and
- (f) the date from which the extension is to take effect and its duration.

2. Where a Member State has laid down national rules regarding representativeness in case of extension of rules of interbranch organisations pursuant to the second subparagraph of Article 164(3) of Regulation (EU) No 1308/2013, it shall notify those rules to the Commission and their justification together with the notification of the extension of rules itself.

3. Before making the extended rules publicly available, the Commission shall inform Member States of those rules by any means it considers appropriate.

*Article 71***Repeal of extension of rules**

The Commission shall adopt the decision referred to in Article 175(d) of Regulation (EU) No 1308/2013 requiring a Member State to repeal an extension of rules decided on by that Member State pursuant to Article 164(1) of that Regulation where it finds that:

- (a) the decision of the Member State excludes competition in a substantial part of the internal market or jeopardises the free trade, or that the objectives of the Article 39 of the Treaty are endangered;
- (b) Article 101(1) of the Treaty applies to the rules extended to other producers;
- (c) the provisions of this Chapter have not been complied with.

The Commission's decision with regard to those rules shall apply from the date of the notification of such a finding to the Member State concerned.

▼B*Article 72***Buyers of produce sold on the tree**

1. In cases where producers not belonging to a producer organisation sell their produce on the tree, the buyer shall, for the purposes of compliance with the rules regarding production reporting and marketing, be considered as having produced that produce.
2. The Member State concerned may decide that rules other than those referred to in paragraph 1 may be made binding on buyers where they are responsible for the management of the production concerned.

TITLE III

TRADE WITH THIRD COUNTRIES ENTRY PRICE SYSTEM*Article 73***Definitions**

For the purposes of this Chapter:

- (a) 'lot' means the goods presented under a declaration of release for free circulation, covering only goods of the same origin falling within one single CN code; and
- (b) 'importer' means the declarant within the meaning of Article 5(15) of Regulation (EU) No 952/2013 of the European Parliament and of the Council ⁽¹⁾.

*Article 74***Notification of prices and quantities of products imported**

1. For each product and for the periods set out in Part A of Annex VII, for each market day and origin, Member States shall notify the Commission, by 12.00 noon (Brussels time) the following working day, of:
 - (a) the average representative prices of the products imported from third countries sold on Member States' import markets; and
 - (b) the total quantities relating to the prices referred to in point (a).

For the purposes of point (a) of the first subparagraph, Member States shall notify the Commission of the import markets they consider representative and which shall include London, Milan, Perpignan and Rungis.

Where the total quantities referred to in point (b) of the first subparagraph are less than 10 tonnes, the corresponding prices shall not be notified to the Commission.

⁽¹⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

▼B

2. The prices referred to in point (a) of the first subparagraph of paragraph 1 shall be recorded:

- (a) for each of the products listed in Part A of Annex VII;
- (b) for all of the available varieties and sizes; and
- (c) at the importer/wholesaler stage or the wholesaler/retailer stage where no prices at the importer/wholesaler stage are available.

They shall be reduced by the following amounts:

- (a) a marketing margin of 15 % for the marketing centres of London, Milan and Rungis and of 8 % for other marketing centres; and
- (b) costs of transport and insurance within the customs territory of the Union.

For the costs of transport and insurance to be deducted pursuant to the second subparagraph, Member States may fix standard amounts for deduction. Such standard amounts and the methods for calculating them shall be notified to the Commission immediately.

3. The prices recorded in accordance with paragraph 2 shall, where they are established at the wholesale/retail stage, be reduced by:

- (a) an amount equal to 9 % to take in respect of the wholesaler's trade margin, and
- (b) an amount equal to EUR 0,7245 per 100 kilograms in respect of the costs of handling and market taxes and charges.

4. For products listed in Part A of Annex VII covered by a specific marketing standard, the following prices shall be deemed to be representative:

- (a) prices of Class I products where the quantities in that class account for at least 50 % of the total quantities marketed;
- (b) prices of Class I and Class II products where the quantities in those classes account for at least 50 % of the total quantities marketed;
- (c) prices of Class II products, where Class I products are not available, unless it is decided to apply an adjustment coefficient to them if, as a result of their quality characteristics, those products are not normally marketed in Class I.

The adjustment coefficient referred to in point (c) of the first subparagraph shall be applied after deduction of the amounts referred to in paragraph 2.

For products listed in Part A of Annex VII that are not covered by a specific marketing standard, prices of products complying with the general marketing standard shall be deemed to be representative.

*Article 75***Entry price basis**

1. For the purposes of Article 181(1) of Regulation (EU) No 1308/2013, the products of the fruit and vegetables and processed fruit and vegetables sectors referred to in that Article shall be those listed in Annex VII to this Regulation.

2. When the customs value of the products listed in Part A of Annex VII is determined in accordance with the transaction value referred to in Article 70 of Regulation (EU) No 952/2013 and that customs value is higher by more than 8 % than the flat-rate calculated by the Commission as a standard import value at the time the declaration of release of the products for free circulation is made, the importer must provide a guarantee as referred to in Article 148 of Commission Implementing Regulation (EU) 2015/2447 ⁽¹⁾. For this purpose, the amount of import duty for which the products listed in Part A of Annex VII to this Regulation may be liable, shall be the amount of the duty due if the product in question had been classified on the basis of the standard import value concerned.

The first subparagraph shall not apply when the standard import value is higher than the entry prices listed in Annex 2 of Section I of Part Three of Annex I to Council Regulation (EEC) No 2658/87 ⁽²⁾, or where the declarant requests the immediate entry in the accounts of the amount of duties to which the goods may ultimately be liable instead of providing a guarantee.

3. When the customs value of the products listed in Part A of Annex VII is calculated in accordance with Article 74(2)(c) of Regulation (EU) No 952/2013, the duty shall be deducted as provided for in Article 38(1) of Implementing Regulation (EU) 2017/892. In that case, the importer shall provide a guarantee equal to the amount of duty which he would have paid if the classification of the products had been made on the basis of the standard import value applicable.

4. The customs value of the goods imported on consignment shall be directly determined in accordance with Article 74(2)(c) of Regulation (EU) No 952/2013, and for this purpose, the standard import value calculated in accordance with Article 38 of Implementing Regulation (EU) 2017/892 shall apply during the periods in force.

5. The importer shall have one month from the sale of the products in question, subject to a limit of four months from the date of acceptance of the declaration of release for free circulation, to prove that the lot was disposed of under the conditions confirming the correctness of the prices referred to in Article 70 of Regulation (EU) No 952/2013, or to determine the customs value referred to in Article 74(2)(c) of that Regulation.

⁽¹⁾ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

▼B

Failure to meet one of these deadlines shall entail the loss of the guarantee provided, without prejudice to the application of paragraph 6.

The guarantee provided shall be released to the extent that proof of the conditions of disposal is provided to the satisfaction of the customs authorities. Otherwise the guarantee shall be forfeit by way of payment of the import duties.

In order to prove that the lot was disposed of under the conditions set out in the first subparagraph, the importer shall make available, in addition to the invoice, all documents needed for the carrying out of the relevant customs controls in relation to the sale and disposal of each product of the lot in question, including documents relating to the transport, insurance, handling and storage of the lot.

Where the marketing standards referred to in Article 3 of Implementing Regulation (EU) No 543/2011 require the product variety or the type of the fruit and vegetables to be indicated on the packaging, the product variety or the type of the fruit and vegetables that form part of the lot shall be indicated on documents related to transport, invoices and the delivery order.

6. The time limit of four months referred to in the first subparagraph of paragraph 5 may be extended by the competent authorities of the Member State by a maximum of three months at the request of the importer, which must be duly justified.

If on verification, the competent authorities of the Member States establish that the requirements of this Article have not been met, they shall recover the duty due in accordance with Article 105 of Regulation (EU) No 952/2013. The amount of the duty to be recovered or remaining to be recovered shall include interest from the date the goods were released for free circulation up to the date of recovery. The interest rate applied shall be that in force for recovery operations under national law.

TITLE IV

GENERAL, TRANSITIONAL AND FINAL PROVISIONS

*Article 76***National penalties**

Without prejudice to any penalties set out in Regulation (EU) No 1306/2013, Regulation (EU) No 1308/2013, this Regulation or Implementing Regulation (EU) 2017/892, Member States shall apply penalties at national level in relation to irregularities with regard to requirements set out in those regulations, including in respect of producer organisations not implementing an operational programme. Those penalties shall be effective, proportionate and dissuasive so that they provide adequate protection for the financial interests of the Union.

*Article 77***Notifications**

1. Member States shall designate a single competent authority or body responsible for fulfilling the notification obligations with respect to each one of the following topics:

▼B

- (a) producer groups, producer organisations, associations of producer organisations, and interbranch organisations, as provided for in Article 54;
- (b) producer prices of fruit and vegetables on the internal market, as provided for in Article 55;
- (c) prices and quantities of the products imported from third countries and sold on the representative import markets referred to in Article 74;
- (d) import volumes put into free circulation, as provided for in Article 39 of Implementing Regulation (EU) 2017/892.

2. Member States shall notify the Commission of the designation and the contact details of the authority or body concerned, and every change of this information.

The list of the designated authorities or bodies containing their names and addresses shall be made available to the Member States and to the public by every appropriate means via the information systems put in place by the Commission, including publication on the internet.

3. The notifications provided for in this Regulation and in Implementing Regulation (EU) 2017/892 shall be made in accordance with Commission Regulation (EC) No 792/2009 ⁽¹⁾.

4. If a Member State fails to make a notification as required under Regulation (EU) No 1308/2013, this Regulation or Implementing Regulation (EU) 2017/892, or if the notification appears incorrect in the light of objective facts in the Commission's possession, the Commission may suspend part or all of the monthly payments referred to in Article 17 of Regulation (EU) No 1306/2013 as regards the fruit and vegetables sector until the notification is made correctly.

Article 78

Notification of *force majeure*

For the purposes of Articles 59(7) and 64(2)(a) of Regulation (EU) No 1306/2013, any case of *force majeure* shall be notified to the competent authority of the Member State, with relevant evidence to the satisfaction of that authority, within 30 working days of the date on which the case of *force majeure* took place.

Article 79

Amendment of Implementing Regulation (EU) No 543/2011

Implementing Regulation (EU) No 543/2011 is amended as follows:

⁽¹⁾ Commission Regulation (EC) No 792/2009 of 31 August 2009 laying down detailed rules for the Member States' notification to the Commission of information and documents in implementation of the common organisation of the markets, the direct payments' regime, the promotion of agricultural products and the regimes applicable to the outermost regions and the smaller Aegean islands (OJ L 228, 1.9.2009, p. 3).

▼B

- (1) Article 2 is deleted;
- (2) Articles 19 to 35 are deleted;
- (3) Articles 50 to 148 are deleted;
- (4) Annexes VI to XVIII are deleted.

*Article 80***Transitional provisions**

1. Without prejudice to Article 34, at the request of a producer organisation or association of producer organisations an operational programme approved under Implementing Regulation (EU) No 543/2011 may:

- (a) continue to operate until its end under the conditions applicable under Implementing Regulation (EU) No 543/2011;
- (b) be modified to meet the requirements of Regulation (EU) No 1308/2013, this Regulation and Implementing Regulation (EU) 2017/892; or
- (c) be replaced by a new operational programme approved under Regulation (EU) No 1308/2013, this Regulation and Implementing Regulation (EU) 2017/892.

2. By way of derogation from Article 23, the ceiling on Union financial assistance for 2017 shall be as calculated under Implementing Regulation (EU) No 543/2011.

3. As regards producer groups formed pursuant to Article 125e of Regulation (EC) No 1234/2007, the deleted provisions of Implementing Regulation (EU) No 543/2011 as referred to in Article 79 of this Regulation shall continue to apply until those producer groups have been recognised as producer organisations or the Member State concerned has recovered the aid paid pursuant to Article 116(2) of Implementing Regulation (EU) No 543/2011.

*Article 81***Entry into force and application**

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.



ANNEX I

Processed products referred to in Article 22(2)

Category	CN code	Description	
Fruit juices	ex 2009	<p>Fruit juices, excluding grape juice and grape must of subheadings 2009 61 and 2009 69, banana juice of subheading ex 2009 80 and concentrated juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.</p> <p>Concentrated fruit juices are fruit juices coming under heading ex 2009 obtained by the physical removal of at least 50 % of the water content, in packings of a net content of not less than 200 kg.</p>	
Tomato concentrate	ex 2002 90 31 ex 2002 90 91	Tomato concentrate with a dry weight content of not less than 28 % in immediate packings of a net content of not less than 200 kg.	
Frozen fruit and vegetables	ex 0710	Vegetables (uncooked or cooked by steaming or boiling in water) frozen, excluding sweetcorn of subheading 0710 40 00, olives of subheading 0710 80 10 and fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> of subheading 0710 80 59.	
	ex 0811	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, not containing added sugar or other sweetening matter, excluding frozen bananas falling within subheading ex 0811 90 95.	
	ex 2004	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than the products of heading 2006, excluding sweetcorn (<i>Zea mays</i> var. <i>saccharata</i>) of subheading ex 2004 90 10, olives of subheading ex 2004 90 30 and potatoes prepared or preserved in the form of flour, meal or flakes of subheading 2004 10 91.	
Canned fruit and vegetables	ex 2001	<p>Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid, excluding:</p> <ul style="list-style-type: none"> — fruit of the genus <i>Capsicum</i> other than sweet peppers or pimentos of subheading 2001 90 20 — sweetcorn (<i>Zea mays</i> var. <i>saccharata</i>) of subheading 2001 90 30 — yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch of subheading 2001 90 40 — palm hearts of subheading 2001 90 60 — olives of subheading 2001 90 65 — vine leaves, hop shoots and other similar edible parts of plants falling within subheading ex 2001 90 97. 	
		ex 2002	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid excluding tomato concentrate of subheadings ex 2002 90 31 and ex 2002 90 91 described above.
		ex 2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006 excluding olives of subheading 2005 70, sweetcorn (<i>Zea mays</i> var. <i>saccharata</i>) of subheading 2005 80 00 and fruit of the genus <i>Capsicum</i> , other than sweet peppers or pimentos of subheading 2005 99 10 and potatoes prepared or preserved in the form of flour, meal or flakes of subheading 2005 20 10.
		ex 2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included, excluding:



Category	CN code	Description
		<ul style="list-style-type: none"> — peanut butter of subheading 2008 11 10 — other nuts, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included, of subheading ex 2008 19 — palm hearts of subheading 2008 91 00 — maize of subheading 2008 99 85 — yams, sweet potatoes and similar edible parts of plants, containing 5 % or more by weight of starch of subheading 2008 99 91 — vine leaves, hop shoots and other similar edible parts of plants falling within subheading ex 2008 99 99 — mixtures of banana otherwise prepared or preserved of subheadings ex 2008 92 59, ex 2008 92 78, ex 2008 92 93 and ex 2008 92 98 — bananas otherwise prepared or preserved of subheadings ex 2008 99 49, ex 2008 99 67 and ex 2008 99 99.
Canned mushrooms	2003 10	Mushrooms of the genus <i>Agaricus</i> prepared or preserved otherwise than by vinegar or acetic acid.
Fruits provisionally preserved in brine	ex 0812	Fruit and nuts, provisionally preserved in brine, but unsuitable in that state for immediate consumption, excluding bananas provisionally preserved falling within subheading ex 0812 90 98.
Dried fruits	ex 0813 0804 20 90 0806 20 ex 2008 19	<p>Fruit, dried, other than that of headings 0801 to 0806.</p> <p>Dried figs.</p> <p>Dried grapes.</p> <p>Other nuts, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included, excluding tropical nuts and their mixtures.</p>
Other processed fruit and vegetable		Processed fruit and vegetables listed in Part X of Annex I of Regulation (EU) No 1308/2013, different from the products listed in the categories above.
Processed aromatic herbs	ex 0910 ex 1211	<p>Dried thyme.</p> <p>Basil, melissa, mint, <i>Origanum vulgare</i> (oregano/wild marjoram), rosemary, sage, dried, whether or not cut, crushed or powdered.</p>
Paprika powder	ex 0904	Pepper of the genus <i>Piper</i> ; dried or crushed or ground fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> , excluding sweet peppers falling within subheading 0904 20 10.

*ANNEX II***List of actions and expenditure not eligible under operational programmes referred to in Article 31(1)**

1. General production costs and, in particular, costs for (even certified) mycelium, seeds and non-perennial plants; plant protection products (including integrated control materials); fertilisers and other inputs; costs of collection or transport (internal or external); storage costs; packaging costs (including use and management of packaging), even as part of new processes; operating costs (in particular electricity, fuel and maintenance).
2. Administrative and personnel costs with the exception of expenditure relating to the implementation of operational funds and operational programmes.
3. Income or price supplements outside crisis prevention and management.
4. Insurance costs outside the harvest insurance measures referred to in Section 7 of Chapter III of Title II.
5. Reimbursement of loans taken out for an operation carried out before the beginning of the operational programme other than those referred to in Article 38.
6. Purchase of land not built on costing more than 10 % of all the eligible expenditure on the operation concerned.
7. Costs of meetings and training programmes not related to the operational programme.
8. Operations or costs relating to the quantities produced by the members of the producer organisation outside the Union.
9. Operations that could distort competition in the other economic activities of the producer organisation.
10. Investments in means of transport to be used for marketing or distribution by the producer organisation.
11. Operating costs of goods hired.
12. Expenditure linked to leasing contracts (taxes, interest, insurance costs, etc.) and operating costs.
13. Subcontracting or outsourcing contracts relating to the operations or expenditure mentioned as not eligible in this list.
14. Value added tax (VAT) except where it is non-recoverable under national VAT legislation.
15. Any national or regional taxes or fiscal levies.
16. Interest on debt except where the contribution is made in a form other than a non-repayable direct assistance.
17. Investments in shares or capital of companies if the investment represents a financial investment.
18. Costs incurred by parties other than the producer organisation or its members and associations of producer organisations or their producer members or subsidiaries in the situation referred to in Article 22(8).

▼ B

19. Investments or similar types of actions not on the holdings and/or premises of the producer organisation, association of producer organisations, or their producer members or a subsidiary in the situation referred to in Article 22(8).

▼ M1

20. Measures outsourced by the producer organisation or their associations outside the Union, except where a promotion is implemented outside the Union according to Article 14 of Implementing Regulation (EU) 2017/892.
21. Export credit linked to actions and activities aimed at diversification and consolidation on the fruit and vegetable markets, whether for prevention or during a crisis period.



ANNEX III

Non-exhaustive list of actions and expenditure eligible under operational programmes referred to in Article 31(1)

1. Specific costs for:

- quality improvement measures;
- biological plant protection materials (such as pheromones and predators) whether used in organic, integrated or conventional production;
- environmental actions referred to in Article 33(5) of Regulation (EU) No 1308/2013;
- organic, integrated or experimental production, including specific costs for organic seeds and seedlings;
- monitoring of compliance with the standards referred to in Title II of Implementing Regulation (EU) No 543/2011, with plant-health rules and with maximum level of residues.

Specific costs shall mean the additional costs, calculated as the difference between the conventional costs and the costs actually incurred, and income foregone resulting from an action excluding additional income and costs savings.

For each category of eligible specific costs referred to in the first paragraph, in order to calculate additional costs compared with conventional ones, Member States may fix, in a duly justified way, standard flat-rates or scales of unit costs.

2. Administrative and personnel costs relating to the implementation of operational funds and operational programmes which shall include:

- (a) overheads specifically related to the operational fund or operational programme, including management and personnel costs, reports and evaluation studies, and the costs of keeping accounts and the management of accounts, by means of the payment of a standard flat rate up to a maximum of 2 % of the operational fund as approved in accordance with Article 33 and up to a maximum of EUR 180 000, comprising both the Union financial assistance and the producer organisation contribution.

In the case of operational programmes submitted by recognised associations of producer organisations, overheads shall be calculated as the addition of the overheads of each producer organisation as provided for in the first paragraph but limited to a maximum of EUR 1 250 000 per association of producer organisations.

Member States may restrict funding to the real costs, in which case they should define the eligible costs;

- (b) personnel costs including legally compulsory charges linked to wages and salaries, if these are directly borne by the producer organisation, association of producer organisation or subsidiaries in the situation referred to in Article 22(8) subject to Member States' approval, by cooperatives which are a member of the producer organisation, resulting from measures:

▼B

- (i) to improve or maintain a high level of quality or environmental protection;
- (ii) to improve the level of marketing.

The implementation of these measures shall essentially involve the use of qualified personnel. If, in such cases, the producer organisation uses its own employees or producer members, the time worked shall be documented.

If a Member State wishes to provide an alternative to restricting funding to the real costs, for all the eligible personnel costs referred to in this point, it shall fix, *ex ante* and in a duly justified way, standard flat rates or scales of unit costs up to a maximum of 20 % of the approved operational fund. This percentage may be increased in duly justified cases.

When requesting those standard flat rates, producer organisations shall furnish proof of the implementation of the action to the satisfaction of the Member State;

- (c) legal and administrative costs of mergers of producer organisations, as well as legal and administrative costs related to creating transnational producer organisations or transnational associations of producer organisations; feasibility studies and proposals commissioned by producer organisations in this respect.
3. Costs of meetings and training programmes where they are related to the operational programme, including daily allowances, transport and accommodation costs, where applicable, on a standard flat-rate or scales of unit costs basis.
4. Promotion of:
- brands/trademarks of producer organisation, associations of producer organisations and subsidiaries in the situation referred to in Article 22(8),
 - generic promotion and promotion of quality labels,
 - costs for promotional printing on packaging or on labels under any of the first and second indents on the condition that it is provided for in the operational programme.

Geographical names are allowed only if:

- (a) they are a protected designation of origin or a protected geographical indication, covered by Regulation (EU) No 1151/2012 of the European Parliament and of the Council ⁽¹⁾; or
- (b) in all cases where point (a) does not apply, these geographical names are secondary to the principal message.

Promotional material for generic promotion and promotion of quality labels shall bear the emblem of the European Union (in the case of visual media only) and include the following statement: ‘Campaign financed with the aid of the European Union’. Producer organisations, associations of producer organisations and subsidiaries in the situation referred to in Article 22(8) of this Regulation shall not use the emblem of the European Union in promotion of their brands/trademarks.

5. Costs for transport, sorting and packing related to free distribution as referred to in Articles 16 and 17 of Implementing Regulation (EU) 2017/892.

⁽¹⁾ Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

▼B

6. Purchase of land not built on where purchase is necessary to carry out an investment included in the operational programme provided it costs less than 10 % of all the eligible expenditure on the operation concerned; in exceptional and duly justified cases, a higher percentage can be fixed for operations concerning environmental conservation.
7. Purchase of equipment, including second hand equipment provided it has not been purchased with Union or national support in a period of seven years preceding the purchase.
8. Investments in means of transport where the producer organisation duly justifies to the Member State concerned that the means of transport shall only be used for transport internal to the producer organisation; and investments in additional on-the-truck facilities for cold-storage or controlled atmosphere transport.
9. Leasing, including of second hand equipment which has not received Union or national support in a period of seven years preceding the leasing, within the limits of the net market value of the item.
10. Hire of equipment or other items where economically justified as an alternative to purchase, at the approval of the Member State.
11. Investments in shares or capital of companies contributing directly to the achievement of the goals of the operational programme.

▼M1

12. Costs related to coaching as part of the crisis prevention and management measures of the operational programme.

Eligible costs under this measure shall be:
 - (a) costs of organising and delivering coaching; and
 - (b) costs of travel, accommodation and *per diem* expenses of coaching provider.
13. Costs related to the negotiation and to implementation and management of third country phytosanitary protocols in the territory of the Union if borne by the producer organisation or association of producer organisations as a part of crisis prevention and management measures referred to in Article 33(3)(a) and (c) of Regulation (EU) No 1308/2013, except for reimbursement of third country expenses.
14. Costs related to promotion and communication measures referred to in Article 14 of Implementing Regulation (EU) 2017/892. Eligible costs under these measures shall be costs related to the organisation and participation in promotion and information events, including public relations work, promotion and information campaigns and may take the form of participation in events, fairs and exhibitions of national, European and international importance. Costs related to technical advisory services are eligible if they are necessary for the organisation or participation of these events or for promotion and information campaigns.



ANNEX IV

Maximum amounts of support for market withdrawals as referred to in Article 45(1)

Product	Maximum support (EUR/100 kg)	
	Free distribution	Other destinations
Cauliflowers	21,05	15,79
Tomatoes (1 June – 31 October)	7,25	7,25
Tomatoes (1 November – 31 May)	33,96	25,48
Apples	24,16	18,11
Grapes	53,52	40,14
Apricots	64,18	48,14
Nectarines	37,82	28,37
Peaches	37,32	27,99
Pears	33,96	25,47
Aubergines	31,2	23,41
Melons	48,1	36,07
Watermelons	9,76	7,31
Oranges	21,00	21,00
Mandarins	25,82	19,50
Clementines	32,38	24,28
Satsumas	25,56	19,50
Lemons	29,98	22,48

▼ M1

ANNEX V

Information to be included in the annual report of Member States as referred to in Article 54(b)

All information shall relate to the calendar year being reported on. It shall cover information on checks executed and administrative penalties applied in respect of that. As regards the information that varies during the year the annual report should reflect the state of play on 31 December of the year reported on.

PART A — INFORMATION FOR MARKET MANAGEMENT

1. Administrative information:

- (a) changes to national legislation adopted in order to implement Section 3 of Chapter II of Title I and Sections 1, 2 and 3 of Chapter III of Title II of Regulation (EU) No 1308/2013;
- (b) changes relating to the national strategy for sustainable operational programmes applicable to operational programmes.

2. Information related to producer organisations, associations of producer organisations, transnational associations of producer organisations, and producer groups:

- (a) total number of recognised/suspended producer organisations, associations of producer organisations, transnational associations of producer organisations, and producer groups. In addition:
 - (i) for associations of producer organisations: number of producer organisations members;
 - (ii) for transnational associations of producer organisations: number of producer organisations members and the Member States where these members have their head office;
- (b) total number of producer organisations, associations of producer organisations, transnational associations of producer organisations, and producer groups for which recognition was withdrawn. In addition for transnational associations of producer organisations: number of organisations members and the Member States where these members have their head office;
- (c) total number of mergers between organisations (broken down between total, number of new organisation(s) and new ID number(s));
- (d) number of members (total and broken down between legal entities, natural persons and fruit and vegetables producers);
- (e) total number of organisations/groups with an operational programme/recognition plan (broken down between recognised, suspended and subject to a merger);
- (f) part of the production of products intended for the fresh market (with the indication of their value and volume);
- (g) part of the production of products intended for processing (with the indication of their value and volume);
- (h) area under fruit and vegetable production.

3. Information related to expenditures:

- (a) expenditures related to producer organisations, associations of producer organisations and transnational associations of producer organisations (broken down between operational fund, final operational fund and national financial assistance);

▼ M1

- (b) total actual expenditures of operational programmes for producer organisations, associations of producer organisations and transnational associations of producer organisations (broken down between actions and measures linked to their objectives);
 - (c) total actual expenditures for producer groups;
 - (d) withdrawals broken down between categories of products (volume, total expenditure, amount of EU financial assistance and destinations (free distribution, composting, processing industry and others)).
4. Information relating to monitoring of operational programmes and recognition plans:
- (a) indicators as regards producer organisations, associations of producer organisations and transnational associations of producer organisations (broken down between actions and measures linked to their objectives);
 - (b) indicators as regards producer groups.

PART B — INFORMATION FOR THE CLEARANCE OF ACCOUNTS

Information on checks and administrative penalties:

- (a) checks carried out by the Member State: details of bodies visited and dates of visiting;
- (b) checking rates;
- (c) results of checks;
- (d) administrative penalties applied.



ANNEX VI

Price notification referred to in Article 55(1)

Product	Type/variety	Presentation/size	Representative Markets
Tomatoes	Round	Size 57-100 mm, in bulk in packages of around 5-6 kg	Belgium Greece Spain
	Trusses	in bulk in packages of around 3-6 kg	France Italy
	Cherry	Trays of around 250-500 g	Hungary The Netherlands Poland Portugal Romania
Apricots	All types and varieties	Size 45-50 mm Trays or packages of around 6-10 kg	Bulgaria Greece Spain France Italy Hungary
Nectarines	White flesh	Size A/B Trays or packages of around 6-10 kg	Greece Spain France
	Yellow flesh	Size A/B Trays or packages of around 6-10 kg	Italy
Peaches	White flesh	Size A/B Trays or packages of around 6-10 kg	Greece Spain France
	Yellow flesh	Size A/B Trays or packages of around 6-10 kg	Italy Hungary Portugal
Table grapes	All types and varieties with seeds	Trays or packages of 1 kg	Greece Spain
	All type and varieties seedless	Trays or packages of 1 kg	France Italy Hungary Portugal

▼ **B**

Product	Type/variety	Presentation/size	Representative Markets
Pears	Blanquilla	Size 55/60, packages of around 5-10 kg	Belgium
	Conference	Size 60/65+, packages of around 5-10 kg	Greece
	Williams	Size 65+/75+, packages of around 5-10 kg	Spain
	Rocha		France
	Abbé Fétel	Size 70/75, packages of around 5-10 kg	Italy
	Kaiser		Hungary
	Doyenné du Comice	Size 75/90, packages of around 5-10 kg	The Netherlands
Apples	Golden delicious	Size 70/80, packages of around 5-20 kg	Belgium
	Braeburn		Czech Republic
	Jonagold (or Jonagored)		Germany
	Idared		Greece
	Fuji		Spain
	Shampion		France
	Granny smith		Austria
	Red delicious and other red varieties		
	Boskoop		
	Gala	Size 70/80, packages of around 5-20 kg	France
	Elstar		Italy
	Cox orange		Hungary
			The Netherlands
		Poland	
		Portugal	
		Romania	
Satsumas	All varieties	Sizes 1-X -3, packages of around 10-20 kg	Spain
Lemons	All varieties	Sizes 3-4, packages of around 10-20 kg	Greece
			Spain
			Italy
Clementines	All varieties	Sizes 1-X -3, packages of around 10-20 kg	Greece
			Spain
			Italy
Mandarins	All varieties	Sizes 1 – 2, packages of around 10-20 kg	Greece
			Spain
			Italy
			Portugal

▼B

Product	Type/variety	Presentation/size	Representative Markets
Oranges	Salustiana	Size 3-6, kg packages of around 10-20 kg	Greece Spain Italy Portugal
	Navelinas		
	Navelate		
	Lanelate		
	Valencia late		
	Tarocco		
	Navel		
Courgettes	All varieties	Size 14-21, loose in the package	Greece Spain France Italy The Netherlands
Cherries	All sweet varieties	Sizes 22 and over, loose in the package	Bulgaria Czech Republic Germany Greece Spain France Italy Hungary Poland Portugal Romania
Cucumbers	Smooth varieties	Sizes 350-500 g, arranged in the package	Bulgaria Greece Spain France Italy Hungary The Netherlands Poland
Garlic	White	Size 50-60 mm, packages of around 2-5 kg	Greece Spain France Italy Hungary
	Violet	Size 45-55 mm, packages of around 2-5 kg	
	Spring	Size 50-60 mm, packages of around 2-5 kg	
Plums	All types and varieties	Size 35 mm and over	Bulgaria Germany Spain France Italy Hungary Poland Romania
		Size 35 mm and over	
		Size 40 mm and over	
		Size 40 mm and over	

▼ **B**

Product	Type/variety	Presentation/size	Representative Markets
Sweet peppers	All types and varieties	Size 70 mm and over	Bulgaria Greece
		Size 50 mm and over	Spain Italy
		Size 40 mm and over	Hungary The Netherlands Portugal
Lettuces	All types and varieties	Size 400 g and over, packages of 8 – 12	Germany Greece
		Size 400 g and over, packages of 8 – 12	Spain France Italy The Netherlands Portugal United Kingdom
Strawberries	All varieties	Packages of 250/500 g	Belgium Germany Spain France Italy The Netherlands Poland Portugal United Kingdom
Cultivated mushrooms	Closed	Medium sized (30-65 mm)	Ireland Spain France Hungary The Netherlands Poland United Kingdom
Kiwis	Hayward	Sizes 105-125 g, packages of around 3-10 kg	Greece France Italy Portugal
Cauliflowers	All types and varieties	Size 16-20 mm	Germany Spain France Italy Poland

▼B

Product	Type/variety	Presentation/size	Representative Markets
Asparagus	All types and varieties	Size 10-16/16+	Germany Spain France The Netherlands Poland
Eggplants (aubergines)	All types and varieties	Size 40+/70+	Spain Italy Romania
Carrots	All types and varieties	usual standards in the representative market	Germany Spain France Italy The Netherlands Poland United Kingdom
Onions	All types and varieties	Size 40-80	Germany Spain France Italy The Netherlands Poland United Kingdom
Beans	All types and varieties	usual standards in the representative market	Belgium Greece Spain France Italy Poland
Leeks	All types and varieties	usual standards in the representative market	Belgium Germany Spain France The Netherlands Poland
Water melons	All types and varieties	usual standards in the representative market	Greece Spain Italy Hungary Romania

▼B

Product	Type/variety	Presentation/size	Representative Markets
Melons	All types and varieties	usual standards in the representative market	Greece Spain France Italy
Cabbages	All types and varieties	usual standards in the representative market	Germany Greece Spain France Poland Romania United Kingdom



ANNEX VII

List of products for the purposes of the entry price system set out in Title III

Without prejudice to the rules for the interpretation of the Combined Nomenclature, the description of the products is deemed to be indicative only. For the purposes of this Annex, the scope of the arrangements provided for in the Title III is determined by the scope of the CN codes as they exist at the time of adoption of this Regulation. Where 'ex' appears before the CN code, the scope of the additional duties is determined both by the scope of the CN code and that of the description of the products, and the corresponding period of application

PART A

CN code	Description	Period of application
ex 0702 00 00	Tomatoes	From 1 January to 31 December
ex 0707 00 05	Cucumbers (1)	From 1 January to 31 December
ex 0709 90 80	Artichokes	From 1 November to 30 June
0709 90 70	Courgettes	From 1 January to 31 December
ex 0805 10 20	Sweet oranges, fresh	From 1 December to 31 May
ex 0805 20 10	Clementines	From 1 November to end of February
ex 0805 20 30	Mandarins (including tangerines and satsumas); wilking and similar citrus hybrids	From 1 November to end of February
ex 0805 20 50		
ex 0805 20 70		
ex 0805 20 90		
ex 0805 50 10	Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>)	From 1 June to 31 May
ex 0806 10 10	Table grapes	From 21 July to 20 November
ex 0808 10 80	Apples	From 1 July to 30 June
ex 0808 20 50	Pears	From 1 July to 30 April
ex 0809 10 00	Apricots	From 1 June to 31 July
ex 0809 20 95	Cherries, other than sour cherries	From 21 May to 10 August
ex 0809 30 10	Peaches, including nectarines	From 11 June to 30 September
ex 0809 30 90		
ex 0809 40 05	Plums	From 11 June to 30 September

PART B

CN code	Description	Period of application
ex 0707 00 05	Cucumbers intended for processing	From 1 May to 31 October
ex 0809 20 05	Sour cherries (<i>Prunus cerasus</i>)	From 21 May to 10 August