



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Deputy Director-General, in charge of Directorates E and G

Brussels  
AGRI.E.2/[REDACTED] (2024)5756456

Dear [REDACTED]

Thank you for your email <sup>(1)</sup> of 6 June 2024 on a request for clarification on the indication of the origin for nuts and dried fruits before the entry into application of Delegated Regulation (UE) 2023/2429 <sup>(2)</sup>.

You will find the replies to your questions in the Annex.

In order to ensure a consistent approach in the implementation of the marketing standards, the Commission will share the position presented in this letter to all Member States.

Yours faithfully,



Pierre BASCOU

Contact:

[REDACTED] AGRI.E.2

Enclosure: Annex

c.c.:

[REDACTED] TAXUD.A.6  
[REDACTED] SANTE.A.1

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<sup>(1)</sup> our reference Ares(2024)4766779

<sup>(2)</sup> Commission Delegated Regulation (EU) 2023/2429 of 17 August 2023 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards marketing standards for the fruit and vegetables sector, certain processed fruit and vegetable products and the bananas sector, and repealing Commission Regulation (EC) No 1666/1999 and Commission Implementing Regulations (EU) No 543/2011 and (EU) No 1333/2011. (OJ L, 2023/2429, 3.11.2023)



## Annex :

1. Can you specify what is meant by “any preparation beyond the extent of trimming” in Art. 5(1b)(xvii)? Are air/fat roasted and/or seasoned nuts within the scope of the regulation because of Art. 5(1b)(xvii)? Art. 5(1b) and Art. 3 of Del. Reg (EU) 2023/2429 otherwise refer to Chapter 8 of Reg (EEC) No 2658/87. Roasted nuts fall in Chapter 20.

➔ **Reply:** For **fresh** fruit and vegetables, this means preparations to put them on the market as 4<sup>th</sup> gamma. For nuts, they are already covered by the exemption of Art. 5(1b) (iii) to (xi),(xiv) and (xv). Roasting excludes nuts from CN code 08 xx xx xx, and therefore from the scope of this Regulation (EU) No 2023/2429

2. Do processed dried fruits like chocolate-covered raisins or dried sugar sweetened fruits (banana chips, cranberries..) fall within the scope of the regulation because of Art. 5(1b)(xvii)?

➔ **Reply:** No, if such food preparations are not covered by the CN codes listed in the scope of the Regulation.

3. Cashews and Brazil nuts are only covered in Art. 5(1b)(xiv). Do we understand correctly that cashews and Brazil nuts as single products do not need to have the country of origin on the packaging? If a single tropical nut, e.g., cashew, is mixed with other non-tropical nuts that fall within the scope of the regulation, we do not need to indicate the country of origin for the cashew nut, correct?

➔ **Reply:** No, they are excluded as single product for historical reasons, being not in Annex I, Part IX of the CMO Regulation. However, they are included when mixed. See the scope of Regulation (UE) 2023/2429: CN code ex 0813. So exclusive mixes of CN codes 0813 50 31 and 0813 50 39 are included.

4. For trail mixes: If we have one raw material, e.g., raisins, that falls within the scope of the regulation, and all other ingredients in the mix (e.g., roasted nuts and chocolate chips) do not fall within the scope of the regulation, can we still apply Article 8(3) because it's a mix and use the following: “Origin Raisin: non-EU”?

➔ **Reply:** No, this possibility is offered for the products ‘covered by this Regulation’. So, for raisin the full origin shall be indicated. The origins of other ingredients may be provided on a voluntary basis in accordance with the FIC Regulation.

5. If we have a mixed product (snacks, cereals..) containing products that are within the scope of Delegated Regulation (EU) 2023/2429 (e.g. hazelnuts, almonds..) and products that are not covered by this Regulation, do we have to indicate the country of origin? And if yes which country/countries do we have to indicate? All countries or “EU and Non-EU”, just for those products in the scope of the regulation or the country of the last preparation step e.g. Mix of the product e.g. “Germany”. As far as we understand it, the mixed products is out of scope of the regulation and therefore no origin must be indicated.

- ➔ **Reply:** Yes, the origin of the products that are within the scope of Delegated Regulation (EU) 2023/2429 need to be indicated, including when they are part of mix with products that fall out the scope of that Regulation. Indeed, “EU and Non-EU”, just for the mix of those products in the scope of the Regulation might be used (e.g. hazelnuts, almonds), provided that the information is provided in a clear, easy to understand manner for the consumers. Although there is no legal requirement to indication the origin of the products that fall out the scope of the Regulation, origin information can be provided for them, in line with Article 36 of Regulation (EU) No 1169/2011.. In any case, for the products within the scope of the Regulation, the origin would be determined by the country of harvest, in no case by the country where the mix is made.
6. In the case of more than one origin e.g. hazelnut kernels from Turkey and Italy, can Article 8 of Delegated Regulation (EU) 2023/2429 be applied when labelling the origin and the origin must be indicated as "EU and non-EU"? Or must the indication read "Origin: Italy, Turkey"? How exactly should the wording of the Delegated Regulation in Article 8 "[...] which contain mixtures of different products or types of products covered by this Regulation" be understood?
- ➔ **Reply:** Mixes of different origins for the same product are not authorised. When a single product or type of product is presented for sale, it has to come from one single origin.
7. When we use “Origin: EU and non-EU,” does it require that in each pack there must be a raw material from both the EU and non-EU, or will it suffice to source from both regions over the course of a year? There are raw materials that are sourced from both the EU and non-EU over the course of a year, but not every pack will contain materials from both regions.
- ➔ **Reply:** Pack must indicate the true origin of products contained therein throughout the year. So, if in a mix of different products or types of products, the origin composition change over the year from one batch of production to another batch, the labelling shall be adapted accordingly. For single product packs, only one origin can be indicated and has to correspond to the true origin of the product contained at any moment of the year. If the sourcing of products used change along the year the origin indicated has to change accordingly (see previous question).
8. What can be understood by “mild heat treatment”? which temperatures are included?
- ➔ **Reply:** This needs to be checked with the authorities dealing with the legislation on custom nomenclature.
9. For multilingual packaging, is declaring the origin in English sufficient? Can we use national country codes like “DE”, “ES”?
- ➔ **Reply:** In this case the FIC Regulation applies, in particular Article 15 regarding languages and the general principle of Article 7(2) that the information to consumers shall be “(...) easy to understand by the consumer” excludes abbreviations.

10. Is there any transition period for using existing labels/packaging produced before 1st Jan 2025?

➔ **Reply:** No, the transition is ongoing since the entry into force of the new Regulation on fruit and vegetables marketing standards and will end with the date of application by 1st January 2025.

11. Many nuts and dried fruits do not and likely cannot be grown in many (or all) European countries. How would country-of-origin-labeling then help promote EU production of these products?

➔ **Reply:** The aim of the legislation is primarily to provide information to consumers in order to make informed choices, not to promote any particular origin. We cannot apply different rules only for imported products not produced in EU member States.

12. What is the logic behind some processing steps (e.g. pasteurisation) having no effect on the need to label country of origin, and other processing steps (e.g. air roasting) removing the need to label country of origin?

➔ **Reply:** This is related to the scope of the Regulation which is linked to the custom nomenclature. The scope of the marketing standard is limited in its scope to the agricultural products covered by the Common Market Organisation (CMO). Processed products and food preparations which are not agricultural products are not covered by the scope of the CMO and, in its turn, of the Regulation.

13. It is similar to question 4, but with a different angle. In a mixture of roasted/salted nuts (outside of scope) we have some dried fruit (Inside scope). The CN code of the final products is not covered, but the reply from the Commission to your question 4 made us really doubtful if our conclusion is correct, that the change of CN code makes the whole product out of scope (or whether we need to origin label the dried fruit).

➔ **Reply:** Yes, it is required to indicate the origin of the dried fruits. The product would be covered by Article 8 on mixes of different products where the origin of products not covered by the scope of the regulation is not required to be indicated.

14. Also, do you know how to evaluate ‘dried fruit’ such as cranberries, where you added apple juice, veg oil etc. I really don’t understand the answer to question 8 ‘*For dried cranberries, please refer to reply 3*’. I don’t see how reply 3 is relevant. Is the Commission not aware of how you normally make dried cranberries – or do they consider these candied fruit?

➔ **Reply:** The reply on dried cranberries was given assuming that it is a simple dried fruit that, as such, requires to be labelled with the origin. More complex preparation requires a case by case analysis to assess the custom classification of the product that we understand would not be a pure mix of different products (within and out of the scope). See also reply 18.

15. Similar question. What about dried fruit with added vegetable oil (it is often done to dried fruit, eg raisins for further use in mixtures or production). Are these products in scope, and if yes, considering the high value added by the drying process, addition of

oil, packaging compared to the raw material will the origin be the place of the production rather than the grapes?

➔ **Reply:** Same reply as 14. For all products within the scope of the Regulation the country of origin is the country where the product was harvested.

16. The marketing standards laid out in regulation (EU) 1308/2013 are directed towards fruit and vegetables which are “intended to be sold fresh to the consumer”. Nonetheless, Article 3 of Regulation (EU) 2023/2429 carries requirements for “processed fruit and vegetable products”. According to the recitals of this revision, the scope of this is limited to “products intended for direct consumption after simple operations like drying or ripening”. Therefore, my understanding is that this should not impose Country of Origin labelling requirements for further industrially processed and packaged food products such as coated/seasoned nuts, or cereals with dried fruit/nuts. Please can this be confirmed.

➔ **Reply:** Same reply as 14.

17. at what point is origin determined by where the raw material is processed (e.g. almonds in marzipan). Is that out of scope? Do you need to list where almonds come from in this type of product?

➔ **Reply:** No, marzipan is out of the scope. Our regulation does not imply the compulsory indication of the origin of products covered by its scope when they used as an ingredient in food preparations which are out of the scope (with the caveat of simple mixes of different products, see above).

18. Are sweetened dried cranberries (CN code 2006003881) in the scope of mandatory origin indication?

➔ **Reply:** If the custom classification corresponds to the given code, no.

19. Could you please clarify why for multiple origin of single-ingredient products we should list all origins (answer to question 9) if non-preferential origin should be applied (as explained in answer to question 12)? According to guidance published by European Commission for products not falling into Annex 22-01 to UCC-DA, we should follow below rules for saffron and nuts:

<b>0802</b>	<b>Other nuts, fresh or dried, whether or not shelled or peeled.</b>	The origin of the goods of this heading shall be the country where they are obtained in their natural or unprocessed state.
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But, if in one batch we have raw materials sourced from different countries we should follow residual rule:

## CHAPTER 8

### Edible fruit and nuts; peel of citrus fruit or melons

#### Chapter residual rule applicable to mixtures:

1. For the purposes of this residual rule, "mixing" means the deliberate and proportionally controlled operation consisting in bringing together two or more fungible materials.
2. The origin of a mixture of products of this Chapter shall be the country of origin of the materials that account for more than 50% by weight of the mixture. The weight of materials of the same origin shall be taken together.
3. When none of the materials used meet the percentage required, the origin of the mixture shall be the country in which the mixing was carried out.

If, for example, we have 40% (by weight) of almonds coming from US and 60% coming from Italy, the non-preferential origin should be Italy. If it would be 50% from US and 50% from Italy, then the correct non-preferential country of origin should be the country where the mixing took place.

The same applies for saffron and its mixtures:

<b>0910</b>	<b>Ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices</b>	<i>As specified for split headings</i>
ex0910(a)	- Curry	CTHS



HS 2022 Code	Description of goods	Primary rules
ex0910(b)	- Other spices, crushed or ground	The origin of the goods of this split heading shall be the country where the plant grew.



## CHAPTER 9

### Coffee, tea, maté and spices

#### **Chapter residual rule applicable to mixtures:**

1. For the purposes of this residual rule, "mixing" means the deliberate and proportionally controlled operation consisting in bringing together two or more fungible materials.
2. The origin of a mixture of products of this Chapter shall be the country of origin of the materials that account for more than 50% by weight of the mixture. The weight of materials of the same origin shall be taken together.
3. When none of the materials used meet the percentage required, the origin of the mixture shall be the country in which the mixing was carried out.

➔ **Reply:** Again, see above, the residual rule for single product mixes of different origins does not apply for products covered by the scope of the marketing standard because such mixes cannot be marketed within the EU.

#### **Background and additional examples provided:**

1. Regulation (EU) 1169/2011 (FIC) applies to "...food business operators at all stages of the food chain, where their activities concern the provision of food information to consumers. It shall apply to all foods intended for the final consumer..."

➔ **Reply:** According to Article 1(4) of the FIC Regulation, the Regulation applies without prejudice to labelling requirements provided for in specific Union provisions applicable to particular foods.

2. Article 26 deals with Country of Origin or Place of Provenance (COO/PP)  
— Art. 26 (3) states that where COO/PP is not the same as that of its primary ingredient:  
    (a) COO/PP of the primary ingredient shall also be given; OR  
    (b) COO/PP of the primary ingredient shall be indicated as being different to that of the food.

➔ **Reply:** The Commission adopted Commission Implementing Regulation (EU) 2018/775, which lays down the modalities for the application of Article 26(3) of the Regulation. In particular, the Implementing Regulation clarifies and harmonises how the origin of the primary ingredient(s) must be labelled. The Commission adopted Commission Notice on the application of the provisions of Article 26(3) of Regulation (EU) No 1169/2011 (2020/C 32/01) to provide guidelines for food business operators and national authorities on the application of the provisions of Article 26(3) of the Regulation.

3. A primary ingredient is defined in Article 2(2)(q) of Regulation (EU) No. 1169/2011 as 'an ingredient or ingredients of a food that represent more than 50% of that food or

which are usually associated with the name of the food by the consumer and for which in most cases a quantitative indication (QUID %) is required’.

**EXAMPLE 1:**

Nut mixture of 30% cashews (India), 30% walnuts (France) and 30% pecans (US) and 10% raisins (US)

- a) since according to art 26 point 3 of FIC Regulation, the final products contain less than 50 % of each ingredient, country of origin should not be mandatory.

OR

- b) Origin is shown as “EU and non-EU”

➔ **Reply:** Cashew nuts alone are in Part XXIV of the CMO and therefore not in the scope of Regulation (EU) 2023/2429. The indication of the origin for cashews is facultative unless not indicating it would mislead the consumer. If it was mixed with Brazil nuts, it would be covered by Regulation (EU) 2023/2429 (ex CN code 0813, Part X of the CMO). The other 3 products are in the scope, meaning the indication of the origin is required. For these products, when mixed, “EU and non-EU” may be indicated in place of “walnuts (France), pecans (US) and raisins (US)”. The legal definition of the primary ingredient identifies two types of criteria to determine the primary ingredient of food: (a) a quantitative one, according to which the ingredient represents more than 50 % of the food; and (b) a qualitative one, according to which the ingredient is usually associated by the consumers with the name of the food. In other words, a primary ingredient may represent less than 50% of the food, if it is usually associated by the consumers with the name of the food. Therefore, Article 26(3) of the FIC Regulation may also apply when the final product contains less than 50 % of each ingredient. Kindly also note that it is a possible that there are more than one primary ingredients.

Also, Article 26(3) FIC applies only when the information on the origin of the food is provided on a voluntary basis.

**EXAMPLE 2:**

Nut mix of cashews from India and pecans from Mexico each are 50 %

- a) per article 8 (3) marketing standards, in that case we can replace country of origin with non-EU

➔ **Reply:** Same reply for cashew nuts. So, in this case, “Mexico” shall be indicated for pecans.

**EXAMPLE 3:**

Lidl is selling roasted almonds which have been produced in Germany. Depending on the time of year and pricing, the manufacturer purchases Almonds from USA or SPAIN. What should be in the label:

- a) Made in Germany (ingredients origin not indicated as product is now classified as Chapter 20 not Chapter 8)
- b) Product of Germany with EU/non-EU ingredients
- c) Product of Germany with ingredients from U.S. or Spain



- ➔ **Reply:** Roasted almonds are out of the scope of Regulation (EU) 2023/2429, so FIC Regulation applies. Concretely, the indication of the origin is facultative, but when indicated, the origin shall be the place of the last substantial processing or working, economically justified; in this case Germany if it is where roasting took place. For the indication of the origin of the ingredients, Article 26(3) of FIC Regulation applies.

**EXAMPLE 4:**

Unprocessed Pistachios from Turkey are imported to the EU via Belgium. The pistachios are sold to a German company that roasts the pistachios and packs them in a consumer pack.

- a) product of Germany, Pistachios from Turkey
- b) ingredient origin does not need to be indicated due to no longer being in chapter 8

- ➔ **Reply:** Same reply as example 3.

**EXAMPLE 5:**

Raw hazelnuts are sourced from multiple origins (Turkey, Italy) throughout the season; the hazelnuts are blanched (to remove skin), chopped and packed.

- a) product of Italy, ingredients EU/non-EU

- ➔ **Reply:** Blanched and chopped hazelnuts are in the scope of Regulation (EU) 2023/2429, therefore the (true) origin shall be indicated, in this case Turkey or Italy. Please note that multiple origins are not authorized for a same species.

Same product but made into a paste then packed.

- b) product of Italy (no ingredient info as no longer Chapter 8)

- ➔ **Reply:** The indication of the origin is facultative as hazelnut paste is not in the scope of Regulation (EU) 2023/2429. Information on the country of origin or the place of provenance of the food may be provided on a voluntary basis, in accordance with Article 36 of the FIC Regulation. For the purposes of the FIC Regulation, the country of origin is the one defined in the Customs Code, namely the country of the last substantial processing or working, economically justified (See Article 2(3) of the FIC Regulation). In this case Italy if it is where the processing into paste took place. For the indication of the origin of the primary ingredient, Article 26(3) of FIC Regulation applies.

**EXAMPLE 6:**

Spanish manufacturer imports raw almonds from US. They are blanched then sliced in Spain.

- a) product of Spain, ingredients U.S.

- ➔ **Reply:** Product of US given blanching and slicing is not substantial processing or working, and therefore the product remain within the scope of the marketing standards Regulation.

**EXAMPLE 7:**

Walnuts are sourced from Ukraine and Moldova, in equal proportion and then packed in France. What origin should be indicated?

- a) Ukraine and Moldova
- b) France

➔ **Reply:** Mixing of origins is not authorised for a same product under the scope of Regulation (EU) 2023/2429. Consequently, a mix of walnuts from Ukraine and Moldova cannot be marketed.

**EXAMPLE 8:**

Walnuts are sourced from Ukraine and Moldova, in a 60:40 ratio and then packed in France. What origin should be indicated?

- a) Ukraine and Moldova
- b) Ukraine

➔ **Reply:** same reply as example 7.

This position is based on the information provided in your email of 1 July 2024, expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.