



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

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

Brussels,
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NOTE TO THE FRENCH AUTHORITIES

Subject: Application of Regulation (EU) 2023/2429 to 4th range products.

1. Scope of products subject to the labelling of origin requirement

- Your question:**

In the case of sales units made up of 4th range vegetable products subject to the labelling of origin requirement and other processed products not subject to the said requirement (e.g. a ready-to-eat aperitif vegetable platter with a container of sauce in its centre (see images below)):



We consider that the labelling of origin requirement only applies to the products provided for in Regulation (EU) 2023/2429. However, for processed products other than fruit and vegetables (e.g. sauce), the Regulation does not set out any obligations with regard to indicating the origin of the ingredients.

The same applies to sales units made up of mixes of 4th range vegetables subject to origin labelling, and processed vegetable products (e.g. cooked sweet corn) not subject to labelling of origin (see image below).



- **Commission reply:**

In the examples provided, the labelling of origin requirement indeed only applies to the products provided for in Commission Delegated Regulation (EU) 2023/2429⁽¹⁾. Labelling of origin rules for sauces are covered by Regulation (EU) No 1169/2011 of the European Parliament and of the Council⁽²⁾ on the provision of food information to consumers, Article 7 of which states that information must not be misleading. Once the sweet corn is cooked, it also falls outside the scope of Delegated Regulation (EU) 2023/2429, but it must comply with the requirements of Regulation (EU) No 1169/2011.

Please also note that, according to Article 26(2) of Regulation (EU) No 1169/2011, indication of origin is mandatory only where failure to indicate this might mislead the consumer.

2. **How to indicate origin**

- **Your question:**

⁽¹⁾ 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)

⁽²⁾ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 Text with EEA relevance, (OJ L 304, 22.11.2011, p. 18–63)

The concept of origin is interpreted in accordance with the provisions of the Customs Code (rule on preferential origin). With regard to 4th range products and partly based on our exchanges on minimal operations, our understanding is as follows:

- *In theory, for products for which more than one country is involved in the manufacture of the product, Article 60(2) of the Union Customs Code (UCC) applies: goods are deemed to originate from the place where they underwent their last substantial processing or working. However, it needs to be taken into account that the operations that 4th range products undergo correspond to minimal operations (such as screening, washing and cutting up), as listed in Article 34 of Delegated Regulation (EU) 2015/2446. Therefore, these operations cannot be considered substantial working or processing, even if some of the materials used originate in the country where they underwent their last processing.*
- *Lastly on the concept of preferential origin: according to the EU Taxation and Customs [Guide](#), for products not listed in Annex 22-01 UCC-DA (as is the case for vegetables) the tables of list rules should be consulted. If we take the special case of 4th range lettuce as an example, the rules for the determination of origin then apply in accordance with the residual rules. The provisions of Chapter 7 on vegetables (including lettuce) specify that the origin of the foodstuffs is where they were obtained in their natural state. The Chapter residual rules also seem to apply to mixes: in the case of a mix of lettuces originating in two or three EU countries (FR, ESP, IT), i.e. identical/fungible products, the country of origin indicated on the pre-package would thus be the country or territory in which most of the materials originated (i.e. + 50% by weight).*

If none of the three origins of the product account for more than half of the mix by weight, then the country of origin is the country in which the product was mixed.

Is our understanding of the Chapter residual rules that apply to mixes of 4th range products correct?

Link to the organic farming Regulation

There are differences in wording as regards labelling of origin between Regulation (EU) 2023/2429 and Regulation (EU) 2018/848 on organic products. In Article 8(3), the marketing standards Regulation for fruit and vegetables states that one of the indications of origin (for mixes) must either be 'EU', 'non-EU' or 'EU and non-EU', whereas the Regulation on organic quality food requires the forms 'EU Agriculture', 'non-EU Agriculture' or 'EU/non-EU Agriculture'.

We consider that for mixes of varieties of organic quality, both regulations on origin can be used as equivalents. Do you agree with our observations?

Article 8

Article 8(1) authorises the marketing of product mixes when the package/pre-package does not exceed 10 kg. According to our understanding, this Article applies to 4th range vegetables.

As regards the conditions referred to in point (a), i.e. that the product marketing standards are met, we consider that only the labelling of origin as provided for by the marketing standard applies to the 4th range. Do you agree with our analysis?

As regards Article 8(2), we understand it as follows: the products not covered by Article 1 do not have to comply with the provisions of Article 8(1). Is this correct?

- **Commission reply:**

In Delegated Regulation (EU) 2023/2429, the concept of origin is indeed interpreted in accordance with the provisions of the Customs Code, but it is the **non-preferential** rules of origin that apply.

Operations resulting in a 4th range product cannot be considered as substantial working or processing, and therefore do not change the origin of a product subject to such operations.

However, for 4th range mixes, it is necessary to refer to Article 8(3) of Delegated Regulation (EU) 2023/2429 and not to ‘residual rules’ allowing for the place where the product was mixed to be indicated as the place of origin. It should be noted that the indications ‘EU’, ‘non-EU’ and ‘EU and non-EU’ only apply to mixes of products and species of different products, and not to varieties within the same species. A mix of different origins for the same product is not allowed.

A mix of 4th range organic products, pre-packaged and labelled with the organic production logo of the European Union, should indicate (in the same visual field as the logo) the place where the agricultural raw materials that make up the product were produced, in accordance with Article 32(2) of Regulation (EU) 2018/848, namely: ‘EU Agriculture’ or ‘non-EU Agriculture’ or ‘EU/non-EU Agriculture’, as per the conditions laid down in the said Article.

The organic products mentioned above must comply with all the rules of production and labelling of organic products.

Products not covered by Article 1 are not affected by subparagraph 8(1)(a), as indicated in the second paragraph of that Article. However, in your example of a salad containing cooked sweet corn, the requirement for the labelling not to mislead the consumer mentioned in subparagraphs 8(1)(b) and 8(1)(c) on mixes of different products remains applicable. In particular, calling a product mix which contains a cooked ingredient ‘Les Crudettes’ could raise questions given that the name suggests a raw product.

3. Marking on documents and packages

- **Your question:**

With regard to Article 6 of Regulation No 2023/2429 on marking provisions along the supply chain and in the case of mixes of fruit or vegetable species, and in light of the provisions of Article 8(3), we consider that it is not possible to indicate 'EU', 'non-EU' and 'EU and non-EU' instead of the products' countries of origin on invoices and documents (Article 6(4)). In our view, this cannot be an option because the traceability of the products would not be ensured. Could you, however, please confirm this?

This question also arises as regards the information notices placed on two sides of the pallet of goods (Annex I, Part A, Marking 'Origin'). Manufacturers mention the problem of pallets that may contain very different products, both pre-packaged single-ingredient products and pre-packaged vegetable mixes. Nevertheless, we consider that all the countries of origin of the products should appear on the pallet sheets.

If we understand the Regulation correctly, in Annex I, Part A, Marking 'Identification', only the indication of origin is mandatory on 4th range pre-packages, in contrast to the indication of the packer, which is optional. As regards the identification of packages that contain pre-packages, the marking of the packer's country is mandatory when it is different from the country of origin of the foodstuffs, according to our understanding of the Annex.

- **Commission reply:**

Simplified labelling rules allowing the indications 'EU', 'non-EU' and 'EU and non-EU' for mixes apply at the retail stage for consumer information purposes. However, they do not apply to invoices and accompanying documents, because those rules regarding the labelling of mixes of different products within the same sales unit do not apply to the assembly of different packages in one transport unit, be it a pallet of goods, a container or another means of transportation.

Under Article 5(1)(b)(xvii), only the indication of origin is mandatory for 4th range products. Therefore, the rest of the marketing standard, general or specific depending on the case, does not apply.

This opinion is provided based on the facts set out in the French authorities' letter of 7 May 2024⁽³⁾. It expresses the opinion of the Commission services and does not bind the European Commission. Should any dispute concerning EU law arise, it is ultimately the responsibility of the Court of Justice of the European Union to give a definitive interpretation of the applicable EU law, as laid down in the Treaty on the Functioning of the European Union.

⁽³⁾ Ares(2024)3465997