

## Position Regarding Place of Origin Labelling

### Summary:

*The entire food sector rejects any expansion of the existing regulations on place of origin labelling, for various reasons. With regard to end products, the Labelling Directive's applicable provisions for preventing any misleading of consumers are completely adequate. Any additional labelling requirements, especially requirements calling for information oriented to ingredients, would not offer consumers any additional informational value. In some cases, they could even serve to mislead consumers. What is more, such regulations would amount to a massive intervention in the Single Market, an intervention that cannot be objectively justified in any way. Furthermore, in producers' actual operational practice, the relevant concepts would lead to significant (cost) burdens and to profound interventions in processing. And by entailing unavoidable multiple labelling with regard to individual raw materials, the concepts would generate absurdities that would undermine the real intent involved.*

*Where there is actually a need to provide details relative to place of farming or cultivation, special pertinent legislation is already in place. We also reject any attempt to expand requirements in this area.*

*The various threads of current relevant discussion, in the framework of European food labelling law (proposal for an EU Regulation on the provision of food information to consumers) and in the framework of the European Commission's Green Paper on agricultural product quality policy, need to be brought together in a consistent manner.*

*We support the proposed EU Food Information Regulation, whereby obligatory designation of origin labelling, under general food-labelling laws, would in principle remain as it is under the existing provisions of Directive 2000/13/EC<sup>1</sup>. On the other hand, the ingredient-labelling expansions included in the proposed regulation are to be rejected, however.*

*It is not useful to discuss the issue separately in the framework of discussion on improving the competitiveness of the German food sector. The aim being sought in such discussion would not be achieved via expansion of labelling requirements.*

*In particular, for suitable deliberation of the relevant diverse, complex questions involved, co-operation and co-ordination with regard to this issue – which is currently being discussed in a range of different spheres of responsibility – need to be improved and tightened.*

*What is more, it must be noted that consumers have shown no demand whatsoever for the extensive labelling being considered. As a study carried out in January 2010 by the British Food Standards Agency shows, designation of origin is not a primary concern for shopping consumers („Though consumers are aware of country of origin labelling, this information is not a main concern when shopping“).*

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<sup>1</sup> This is also the position taken in the Federal Government's answer (BT-Drs. 16/14073 of 23 September 2009) to a minor interpellation relative to the EU Food Information Regulation.

*This accords with our conviction that, as consumers find themselves having to deal with a growing flood of additional information and labelling, the proposed labelling would not in any way serve to achieve the central, significant aim involved: „improving information for consumers“. The following section supports this position by presenting a number of specific, concrete examples of the sorts of impacts the proposed labelling requirements would have.*

## I. The current legal situation is adequate and appropriate

### **Origin information must be provided if the consumer could otherwise be misled (Directive on labelling, presentation and advertising of foodstuffs)**

The current legal framework requires origin information (designation of origin) to be provided, in any case, for a food if otherwise the consumer could be misled.

Regulations with additional provisions relative to certain product groups (unprocessed products) are in place, via special laws. Such provisions require designation of origin to be provided for products such as beef, fruit and vegetables.

### **Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs**

In addition, the EU provides for the protection of certain designations of origin that are based on regional indications. Such designations are listed in a relevant European register.

In light of the special characteristics of agricultural products and foodstuffs from defined geographical areas, additional special provisions should be adopted „...to....make this category of products and the guarantees attached to them better known to consumers ...“, so recital 5 of Regulation (EC) No 510/2006.

A flood of general, ingredients-oriented origin information, in addition to such specific information, would thus reduce the value of the regional-origin designations that are protected under European law. Significantly, such protection always has to do with end products and the manner in which they are labelled; it does not refer to ingredients.

### **Current status of the discussion**

Currently, the political sector is discussing the possibility of expanding such consumer-information requirements, requirements that in our view are completely adequate. Such an expansion would purport to enhance transparency and information resources for consumers. As to approach, the relevant concepts cover a spectrum that includes obligatory origin labelling for end products, obligatory origin labelling for ingredients or raw materials and even obligatory declaration of the relevant place of farming.

In our view, such aims are irreconcilable with the principles of the European Single Market, and they run counter to the provisions of the Codex Alimentarius, which, pursuant to Regulation (EC) 178/2002, is also to serve as the standard for relevant European legislation. Furthermore, we see no objective need for such extensive, complex requirements for mandatory origin labelling.

As early as 1997, the EU Commission noted that obligatory systematic designation of the origins of goods would create new trade barriers (for example, by discrediting foods from certain Member States) and, for many products, would not significantly enhance the information available to consumers. That analysis remains accurate today.

The Codex Alimentarius' standard for labelling of pre-packaged foods requires designation of origin to be included in cases in which the consumer would otherwise be misled. In this context, the country of origin for purposes of labelling is defined as the country in which the final stage of processing took place. If Europe now wishes to achieve a higher level of protection in this area, scientific evidence of a pertinent need will have to be provided, especially with regard to world trade agreements.

What is more, products that have special characteristics as a result of their origin can be placed under suitable European protection via Regulation (EC) No 510/2006. Requirements for general obligatory designation of origin would undermine the significance of such protection. In addition, in a global market, general obligatory designation of origin would pose numerous practical problems, such as reduced flexibility in composition of foods.

Before any steps in the direction of mandatory origin labelling are taken, the potential impacts of such steps need to be considered in detail. In addition, it must be remembered that such origin labelling could well have the effect of enlarging barriers to entry into other Member States. At the same time, the potential advantages and impacts of such origin labelling are not at all apparent. They are anything but clear, since labelling obligations already apply in cases in which consumers could be misled. In addition, numerous voluntary consumer-information initiatives are already in place – and consumers who are especially interested in the origins of a product or its ingredients always have the option, in individual cases, of submitting relevant queries.

## II. Arguments against general obligatory designation of origin in labelling

General obligatory origin labelling would pose numerous practical problems. Regulations in this area must take sufficient account of the actual circumstances of food production – and this applies with regard to both basic practicability in operational workflow and to the relevant additional costs.

### Labelling to show an end product's origin

- At present, there is no generally valid definition of origin. This is understandable, since any attempt at a definition will bring up questions in connection with individual products – and since any definition will reach its limits as soon as one attempts to apply it to other product groups. Ultimately, the question of origin also depends strongly on consumers' expectations, and thus on specific aspects of the product involved in each case. The difficulties that arise in connection with any attempt to define origin can be illustrated with the example of a meat product for which the relevant animal is born in one country, raised in another, slaughtered in a third, segmented in a fourth and then processed in a fifth. Each additional processing step increases the complexity of providing consumer information that is at once logical/understandable and accurate.
- Additional problems arise in connection with products that can – or must – consist of mixtures of contributions from different origins (for example, milk, flour, coffee, etc. – cf. the Annex). Such mixing can occur through flavour optimization or can be necessary in light of practical circumstances prevailing in storage of relevant products.

No economically acceptable labelling of individual packages could be practicable in such cases. Needless to say, traceability in the framework of food safety (traceability conceived for a different purpose) is assured. Changes oriented to individual ingredients are often made at such short intervals that it would be unfeasible to attempt to list such changes, or relevant operationally required production-process adjustments – either simultaneously or in parallel – in labelling and on individual food-package labels.

Separate storage in keeping with all relevant different origins involved, to permit precise origin-based categorisation of products, would create unreasonably high costs for sector participants.

This applies especially to the relevant burdens for small and medium-sized enterprises (SMEs) in particular, which tend to stock several years' worth of packaging at a time (in keeping with their limited production capacities). Such declaration could not be cost-effective for such companies.

The economic burdens that such labelling would impose on companies could also not be eliminated via any (apparent) compromise involving solutions such as those discussed in connection with proposals regarding labelling to show multiple origins (such as „originates from either ... or ...“). Such approaches would also create economic burdens for sector enterprises, without offering consumers any truly useful information – they are thus of little use.

## EXAMPLE:

### The example of apple juice

- Average amount produced in Germany in the last 5 years: 1 billion litres, of which some 500 million litres are pressed in Germany (pressing by producers themselves)
- The minimum quality requirements for apple juice are defined by law in Germany (via the Ordinance on fruit juices (Fruchtsaftverordnung), and via fruit-juice guidelines in the German Food Code (Deutsches Lebensmittelbuch)
- Acidity (among other factors) is an important aspect with regard to consumers' taste expectations. The acidity of apples varies by growing area / region (for example, it tends to be high in Italy and low in Poland, etc.), and it depends on variety, weather conditions, harvest time, etc.
- Apple trees tend to alternate between low yield and high yield. As a result, the juice-processing industry routinely has to make adjustments in its procurements.

### CONCLUSION:

To maintain consistent quality and flavour standards for consumers, producers have to compensate for harvest fluctuations, differences in quality and variations in availability. As a result, producers have to blend (mix) different apple juices.

Official statistics show that apple-juice concentrate, a semi-finished product used in production of apple juice, is produced by a total of 15 EU Member States and 13 other countries (figures from: 2008).

- It is difficult to define the concept of product origin in any general way. What is more, any such definition would fail to take account of expectations of consumers – since consumers' associations with the concept of „origin“ vary from product to product. For example, in some cases it may be most useful to tie „origin“ to the location of a product's last stage of processing, while in other cases the origins of a product's ingredients may be of decisive interest, even for products that have undergone numerous processing steps at different locations. Consequently, the informational value of origin labelling varies from product to product. Any rigid regulation thus has the potential to mislead consumers by imposing origin labelling requirements that prompt consumers to have expectations that the relevant products do not actually meet. Such concerns, for example, are addressed especially by Article 2 (1) letter a of the Labelling Directive, 2000/13/EC.

The following example illustrates the problems entailed in any attempt to define product origin in a way that will not mislead consumers:

### EXAMPLE:

#### The example of pizza with ham and mushrooms

- Baked in Germany, with ingredients that include ham from Italy (from Dutch pigs); mushrooms from the Netherlands; flour of various origins (Poland, Germany); cheese from the Netherlands, produced from milk of various origins, such as Germany and Denmark; tomatoes from Italy, etc..
- What is the „correct“ designation of origin for such a product?

What is more, the concept of „origin“ has been defined in highly different ways to date – in keeping with the aims of the relevant regulations: for example, the Codex Alimentarius focuses on the last stage of processing. Whereas this highlights the end product, other regulations (such as those oriented to fruits and vegetables) focus on the place of farming. It thus seems neither useful nor meaningful to apply a common definition to all products. For example, „origin“ in the case of an apple (determined by area/region of cultivation) must of necessity be defined differently than „origin“ in the case of a product composed of ingredients with many different origins (such as instant-meal products).

## Designation of origin for ingredients of compound products

The aforementioned complexities increase many times over in the case of compound products, since their ingredients can come from an enormous range of different regions, throughout a global market.

### EXAMPLE:

#### The example of multivitamin-multifruit juices

- In terms of per-capita consumption, these juices rank third among fruit juices, after apple juice and orange juice. They consist of combinations of up to nine or 10 different (exotic) fruit juices and flavours.
- By way of example, the following table shows the types of fruit commonly used, and freely combined, in such juices, along with their origins:

Type of fruit used	Origin
Pineapple	Costa Rica, Thailand, Brazil, Philippines, Indonesia, Mexico, India
Apple	Germany, various EU countries, various other countries
Apricot	Spain, Italy, France, Israel, California, Greece
Banana	Brazil, India, Thailand, Philippines, Ecuador, Costa Rica
Pear	France, Italy, Belgium, Netherlands, Austria, Germany, Chile, Argentina, South Africa, USA, China
Guave	Mexico, Brazil, India, South Africa, Malaysia, Egypt
Lychee	South Africa, India, Thailand, Mexico, China, Israel
Nectarine	Italy, France, Spain, Greece, California, Chile, South Africa
Orange	Brazil, Florida, Spain, Israel, Greece, South Africa
Papaya	Mexico, Brazil, India, South Africa, Kenya
Peach	Italy, France, Spain, Greece, USA, South America, Australia, South Africa
Grape	Italy, Greece, Spain, South Africa, Chile, Argentina, France
Umbu	Brazil
Lemon	Mediterranean, Argentina, Brazil, South Africa

## EXAMPLE:

### List of ingredients in Asian stir-fry vegetables, with designation of origin (with EU-based/non-EU-based listing)

10% mushrooms (origin EU: France, Poland; or non-EU: China) 10% leeks (origin EU: France or Belgium), 9.7% cauliflower (origin EU: Belgium, France, Spain or the Netherlands), 9 % carrots (origin EU: the Netherlands, Belgium or France) , 9% red bell pepper (origin EU: Spain or Italy; or non-EU: Turkey), 8% black mushroom (origin non-EU: China), 8% savoy (origin EU: Germany, Belgium or Poland), 8% peas (origin EU: Belgium, France or the Netherlands), 8% sliced onions (origin EU: Belgium, France or the Netherlands), 5% whole sugar peas (origin non-EU: China), 5% mung bean sprouts (origin non-EU: China), 4% bamboo shoots (origin non-EU: China), vegetable dressing (rapeseed oil (origin EU: Germany, Belgium, France, Poland, or the Netherlands; or non-EU: China, Canada or India), and vegetable fat (origin non-EU: China), water, emulsifier: mono- and diglycerides of edible fatty acids (origin EU: Germany, Belgium, France, Poland, or the Netherlands; or non-EU: China, Canada or India), flavouring (origin EU), acidifiers: citric acid, vitamins A and D3 (origin EU), sugar (origin EU), table salt (origin EU), powdered soy sauce (origin EU: Germany, Belgium, France, Poland, or the Netherlands; or non-EU: China), spices (origin EU: Germany, Belgium, France, Poland, or the Netherlands; or non-EU: China).

Without ingredients-based origin labelling, the same list of ingredients is much clearer, as the following example, provided for purposes of comparison, shows:

### List of ingredients, Asian stir-fry vegetables, under applicable law

10% mushrooms, 10% leeks, 9.7% cauliflower, 9 % carrots, 9% red bell pepper, 8% black mushroom, 8% savoy, 8% peas, 8% sliced onions, 5% whole sugar peas, 5% mung bean sprouts, 4% bamboo shoots, vegetable dressing (rapeseed oil) and vegetable fat, water, emulsifier: mono- and diglycerides of edible fatty acids, flavouring, acidifiers: citric acid, vitamins A and D3, sugar, table salt, powdered soy sauce, spices.

The example vividly illustrates the complexity involved in any obligatory labelling to show the origins of ingredients. Labels have limited available space and often even have to present information in multiple languages. Consequently, label presentation of extensive listings – such as that provided above – would normally be unfeasible and, in any case, would detract from the clarity and understandability of the important information consumers require.

As a noteworthy study carried out in January 2010 by the British Food Standards Agency shows, designation of origin is not a primary concern for shopping consumers (“Though consumers are aware of country of origin labelling, this information is not a main concern when shopping”).

- Attempts to limit designation of origin labelling to so-called “primary ingredients” will regularly fail simply in defining what such ingredients are. What, for example, is the primary ingredient of the above-mentioned stir-fry vegetable dish?

- Many companies today already actively inform their customers regarding the regionality/origins of their products and even of their products' individual ingredients. Such companies find such information to be a useful way of setting themselves apart from their competitors, in a fair competitive market environment, even as they fulfil the applicable legal requirements.
- Any obligatory designation of origin labelling would restrict producers' options and flexibility. Producers must be able to respond rapidly to changing market situations and, when need be in the interest of production or of product quality, to engage in even day-to-day shifting of product sourcing to other regions. No origin-based labelling that is economically reasonable could ever reflect all aspects of such necessary options and flexibility. Loss of such flexibility would necessarily have considerable impacts on products' prices, and it still would not significantly enhance the information available to consumers. What is more, it would impose unreasonably great financial burdens on SMEs. Products always have to conform to the same quality standards. And products can be consistently produced only via consistent use of ingredients meeting manufacturers' desired quality standards, regardless of their origin.
- Products that must always conform to the same quality standards and offer consumers the same characteristics can be consistently produced only via consistent use of ingredients meeting the desired quality standards. Such consistent use, in turn, is possible only through flexible regional sourcing of ingredients. When the harvest of a given ingredient in a given country is less than optimal – for example, as a result of weather – it must be possible to source the ingredient from a different region in order to maintain the quality standards for the end product in question.
- What is more, delivery relationships can be business secrets that are conducive to effective competition – and that competing companies will thus justifiably not want to disclose.

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## Annex

### I. EXAMPLE OF:

#### „coffee“

- A. *It is questionable whether most consumers are truly interested in any expansion of regulations on origin labelling.*

In Germany, coffee is sold most commonly in „blend“ form. „Blends“ are mixtures of coffees from different provenances (coffees from different growing regions). In many cases, blends will consist of 4 to 8 coffees from different growing countries. Producers have to blend coffees from different growing regions because they have to offer consumers consistent flavour profiles. Coffees from different regions differ in taste. What is more, aroma characteristics can differ from harvest to harvest, as a result of various factors, including weather. A majority of German consumers want their coffee to have a consistent flavour. In „blends“, coffees of different origins and varieties are mixed and balanced in keeping with the need to offer consumers consistency in flavour; consumers tend not to be interested in the regional origins of coffee.

What is more, single-provenance coffees are also available in the German coffee market. At the same time, such „single-variety coffees“, which are clearly labelled to show their origins, tend to remain a niche segment with a share of less than 2 percent of the overall coffee market. Labelling of such coffees is almost exclusively origin-based.

- B. *In the case of „blends“, it is not practicable to list the various origins and cultivation regions involved.*

Most of the coffee sold is coffee that has been blended in the interest of consistency of flavour or of price. For any given brand of coffee, the blend involved can vary. Often, the mixture ratios will vary, since coffee quality can fluctuate highly in accordance with harvest results. For coffee from certain growing countries, such as Peru, some quality levels are available for only a short period of the year. In addition, producers have to compensate for weather-related harvest failures. In the coffee sector, such compensation is referred to as „flexible blending“. Even different lots of one and the same coffee product can differ. Producers commonly make changes in their blends every few days.

Coffee is often packaged in foil packages in order to protect its flavour and aroma. The labels on such packages are normally printed by means of an expensive copper intaglio printing process. Under mandatory origin labelling regulations, such packages would have to be changed with every change in coffee blend involved. Changes in the text on such packages would necessitate re-engraving of printing cylinders. Such re-engraving is time-consuming and expensive, and it would not be feasible to carry it out at short intervals.

- C. *Existing regulations for protection of regionally based designations of origin, and the current voluntary labelling practice, provide a suitable legal basis for single-variety coffees, which account for a small segment of the market.*

*D. Precise listing of growing sites would not be possible for coffee.*

Much of the coffee sold is grown by small farmers. Such farmers bring their harvests to mills that accept and mix coffee beans from many different coffee growers. Specialised companies with their own mills are the exception. In practice, it is thus unfeasible to separate individual harvests by place of cultivation and to label coffee accordingly.

## II. EXAMPLE OF:

### „chocolate“

Cocoa lots from the same growing region, as well as cocoa lots from different growing regions, can differ widely in terms of flavour, aroma and appearance. The techniques that producers use to maintain consistent quality in chocolate and milk chocolate include using different lots of cocoa. It is unfeasible to require labels to show the national origins of sugar (a well-known main ingredient of chocolate) and of milk powder. The situation is complicated, for example, even in the case of Alpine milk powder, a product obviously tied to a particular region: a total of four different countries produce such milk powder. In addition, even standard-quality raw materials are not necessarily separated by lots for purposes of storage and use. While lots can be differentiated for purposes of traceability, it is not feasible for labels to have to show the relevant national origins. Because the lots involved in this sector are often extremely small, such requirements would create unreasonable, unjustified additional storage, software and inspection overhead, and space requirements, in production, as well as additional costs for packaging.

## III. EXAMPLE OF:

### „milk and dairy products“

Milk and dairy products are produced from an extremely wide range of ingredients. In some cases, milk is purchased from farmers in specific dairy districts. In other cases, additional milk is purchased from other dairies. In some cases, such additionally purchased milk is sold as separate components, i.e. separated into skimmed milk and cream. An additional complication is that dairies are often located in rural areas, and such areas are often boundary areas within the EU Single Market (for example, the two largest German dairies are located in boundary regions: the Saxony / Czech Republic region and the Eifel Mountains region, near France, Belgium, Luxembourg and the Netherlands). Large dairies often obtain raw milk from up to six different EU countries. After inspecting delivered milk, they store it in collective tanks.

Other milk products are often added. Caseinate from third countries, for example, is often added to yoghurt as a protein enricher. „Total milk protein“ for cheese production often originates from Australia. Consequently, the problem has significance at the WTO level.

The situation is also complex in the case of other ingredients. Fruits of different provenances are added on a seasonal basis; for example, in the summer, strawberries are obtained from the Lower Rhine, while in the winter they are obtained from China. The sugar used also brings up complexities for any origin labelling.

Simply labelling to show „place of farming“ of the milk components involved, and the origin of the main ingredient („yoghurt with strawberries“) would lead to additional costs on the order of billions of euros. New logistics systems would have to be established and monitored, and additional tanks would have to be integrated. The time periods involved for loading and unloading machines and systems would increase many times over. Milk collection could no longer take place on a trans-boundary basis. Alternatively, the tanker trucks used would have to have separate tank systems/containers („German tank“, „French tank“). The entire dairy network might even have to be replanned. Such replanning would entail a number of consequences. For example, the sector and consumers would no longer profit from large dairies' cost advantages of scale.

The entire relevant packaging sector would have to be replanned. Numerous different types of labels would have to be stored. Enormous additional costs would arise as a result, costs that consumers and/or farmers would also have to bear.

Germany is a strong „net exporter“. It is not always useful to show German origins. In many cases, doing so would significantly impair our competitiveness („Belgian milk chocolate“ with German whole milk powder...)

**In sum:**

- We reject any mandatory origin labelling.
- While origin labelling can be economically useful, it should always be voluntary and should always be monitored. This goal is already being met today.
- Milk and dairy products are processed in certified plants, and are monitored within the EU's free trade system. Labels today already show such plants' certification numbers.
- „Absolute“ origin labelling would generate billions of euros in costs for the sector, thereby increasing costs/prices and decreasing producers' profits.