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COMMISSION IMPLEMENTING REGULATION (EU) No .../..

of XXX

laying down rules for the application of Article 26(3) of Regulation (EU) N° 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as regards the rules for indicating the country of origin or place of provenance of the primary ingredient of a food where different to that given for that food

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 608/2004¹, and in particular Article 26(8) thereof,

Whereas:

- 1) Article 26 paragraph 3 of Regulation (EU) N° 1169/2011 (hereafter "the Regulation") establishes rules and labelling requirements in case where the country of origin or the place of provenance of a food is given and it is not the

¹ OJ L 304, 22.11.2011, p. 18.

same as that of its primary ingredient. It further states that its implementation shall be subject to the adoption of an implementing act.

- 2) Article 26 paragraph 2 of the Regulation requires indication of the country of origin or place of provenance to be given where its omission could mislead the consumer as to the true country of origin or place of provenance of the food in question.
- 3) In assessing where the country of origin or place of provenance is given according to Article 26 paragraph 3, any indication provided in relation to the food such as statements, terms, pictorial presentation or symbols should be taken into consideration. In particular, this Regulation would apply where the specific presentation of the food as a whole is to be considered as giving the country of origin or place of provenance to the purchaser and is likely to have such effect on normally informed and the reasonably circumspect consumer. Trade marks and customary names, as any other geographical indication, should therefore be subject to this case by case assessment.
- 4) This Regulation should not affect the use of names of foods, including trade marks and brand names, which have become the common name of a food. Such evolution can be due to the reference to a geographical place, region or country where the food was originally produced or marketed or to a geographical place, region or country whose name is used in connection with the food for other historical reasons. Therefore, geographical terms included in, or accompanying the name of the food, used for the purpose of referring to customary names or specific manufacturing practices in certain countries or places, would not imply for the consumer an indication of origin or place of provenance if they are well understood in this way by the consumers.
- 5) Where specific EU legislation lays down provisions on mandatory or voluntary origin indication for specific category of foods, this Regulation should not apply.
- 6) Geographical indications protected pursuant to Union law, are identifying food for which an intrinsic link exists between characteristics and geographical origin, the latter being necessary to establish quality characteristic. Therefore, geographical terms when being part of the names protected under Regulation (EU) No 1151/2012, Regulation (EU) No 1308/2013, Regulation (EC) No 110/2008 or Regulation (EU) No 251/2014, or pursuant to agreements between the Union and third countries and as such listed in those agreements, where they refer to a geographical place, should not constitute an indication of the country of origin or place of provenance of that food. However, if the products contain, in addition, a statement or any other form, that could be considered as a voluntary indication of the origin or provenance, this Regulation would apply as a general rule.
- 7) Geographical terms used in commercial names as set up by the Member States according to Article 37 of Regulation (EU) No 1379/2013 should not trigger the application of this Regulation. Nevertheless, if such foods contain, in addition, a statement or any other form, that could be considered as a voluntary indication of the origin or provenance, this Regulation would apply as a general rule.

- 8) For the purpose of this Regulation, identification marks provided under Regulation (EC) No 853/2004 should not be considered as providing the country of origin or the place of provenance of the food concerned.
- 9) In order to ensure that consumers are not deceived and that they are accurately informed, Article 26 paragraph 3 of the Regulation requires that where the country of origin or the place of provenance of a food is given and it is different to that of its primary ingredient as defined in the Regulation, the country of origin or the place of provenance of the latter is also given, or alternatively at least indicated as different, by the choice of the food business operator.
- 10) With a view to ensuring that the objectives of the provision concerned could be reached, as regards the information of the consumers, it is necessary to set rules providing for sufficiently precise and meaningful information on the country of origin or the place of provenance of the primary ingredient where it is given, enabling the consumers to make their choice in full knowledge of the facts.
- 11) It is therefore appropriate that such indication is provided for the primary ingredient with reference to a clearly understandable geographical area. In this respect, the use of invented names for regions or other geographical areas which are not meaningful information or could mislead the consumer as to the real place of provenance of the primary ingredient should not be allowed. Reversely, reference to regions covering the territory of more than one Member State or third country should be possible, if such regions can be clearly identified by reference to a legal instrument under public international law, and such reference is well understood by consumers.
- 12) Primary ingredients in certain foods may differ due to the multiple or variable supply sources and particular production processes and disclosing origin or provenance in a precise manner could considerably increase the production costs, and possibly the retail prices, without increasing proportionately the usefulness of the information provided to the consumer. Therefore, food business operators should be allowed, if they wish, to give the country of origin or place of provenance of the primary ingredient with reference to a different geographical area than the one used for the food.
- 13) Where harmonised rules are in force for the indication of the country of origin or the place of provenance of certain foods or where such rules refer to specific geographical areas, they should be used for the purpose of giving the country of origin or place of provenance of the same foods used as primary ingredients for the purpose of Article 26 paragraph 3 of the Regulation.
- 14) With a view to ensuring clear, simple and meaningful information where food business operators prefer to only indicate that the country of origin or place of provenance of the primary ingredient is different to that of the food, a harmonised statement should be specified in the implementing provisions.
- 15) The information provided in relation to the food by application of Article 26 paragraph 3 of the Regulation should be presented in a way as to complement the information given to the consumers on the country of origin or place of provenance of the final food, and should be easily visible and readable. Rules should therefore be set to that effect.

16) In accordance with Article 47 of the Regulation, an appropriate transitional period should be established for the application of this Regulation.

17) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

1. Any indication provided in relation to a food such as statements, terms, pictorial presentation or symbols is considered as information on the country of origin or the place of provenance of that food, when it can have such effect on the normally informed and reasonably circumspect consumer.

2. For the purpose of this Regulation, the following indications are not considered as information on the country of origin or the place of provenance of the food:

- a) geographical terms when being part of the names applied for or protected under Regulation (EU) No 1151/2012;
- b) geographical terms when being part of the names applied for or protected under Regulation (EU) No 1308/2013), Regulation (EC) No 110/2008 and Regulation (EU) No 251/2014;
- c) geographical terms when being part of the names protected pursuant to agreements between the Union and third countries and as such listed in those agreements;
- d) geographical terms used in commercial designations as defined in Article 37 of Regulation (EU) No 1379/2013.

Article 2

Indication of the country of origin or place of provenance of the primary ingredient

The country of origin or the place of provenance of a primary ingredient which is not the same as the given country of origin or the given place of provenance of the food shall be given:

a) unless specific Union provisions apply for the indication of the country of origin or place of provenance of the primary ingredient, with reference to one of the following geographical areas:

- (i) “EU”, or “non-EU” ,

(ii) Region, or any other geographical area either within several Member States or within third countries, if defined as such under public international law or well understood by normally informed and reasonably circumspect consumers;

(iii) Member State(s) or third country(ies);

(iv) Region, or any other geographical area within a Member State or within a third country, if well understood by normally informed and reasonably circumspect consumers; or

(b) by means of a statement as follows:

" (name of the primary ingredient) do/does not originate from (the country of origin or the place of provenance of the food)" or any similar wording likely to have the same meaning for the consumer.

Article 3

Presentation of the information

1. Information provided pursuant to Article 2 shall be provided in a font size which is not smaller than the minimum font size as required in accordance with Article 13(2) of Regulation (EU) No 1169/2011.
2. Where the country of origin or place of provenance of a food is given with words, the information provided pursuant to Article 2 shall appear in the same field of vision as the indication of the country of origin or place of provenance of the food and by using a font size which has an x-height of at least 75% of the x-height of the indication of the country of origin or place of provenance of the food.
3. Where the country of origin or place of provenance of a food is given by means of non-scriptural form, the information provided pursuant to Article 2 shall appear in the same field of vision as the indication of the country of origin or place of provenance of the food, where appropriate, or at least be marked in a conspicuous place in such a way as to be easily visible.

Article 4

Entry into force, transitional measures and date of application

1. This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from 1 April 2019.

3. Foods placed on the market or labelled prior to the date of application of this Regulation may be marketed until the stocks are exhausted.
4. This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission
The President
Jean-Claude Juncker*