

## Applying the EU rules on voluntary origin labelling

### AIJN DECISION TREE

This Guidance is intended as a common interpretation to assist AIJN members in the application of Regulation (EU) 2018/775 laying down rules for the application of Article 26(3) of Regulation (EU) 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. The guidance is provided without liability in use. It is the responsibility of the individual Food Business Operator (FBO) to ensure compliance with the law for their own products, on a case by case basis.

The AIJN has developed this decision tree to assist producers of fruit juices and nectars in the process of deciding whether or not there is anything on their label that could be considered as indication of country of origin labelling. Any such indication on the product label could effect a series of legal obligations of which producers are not always aware.

This decision tree and its annex pose the following questions:

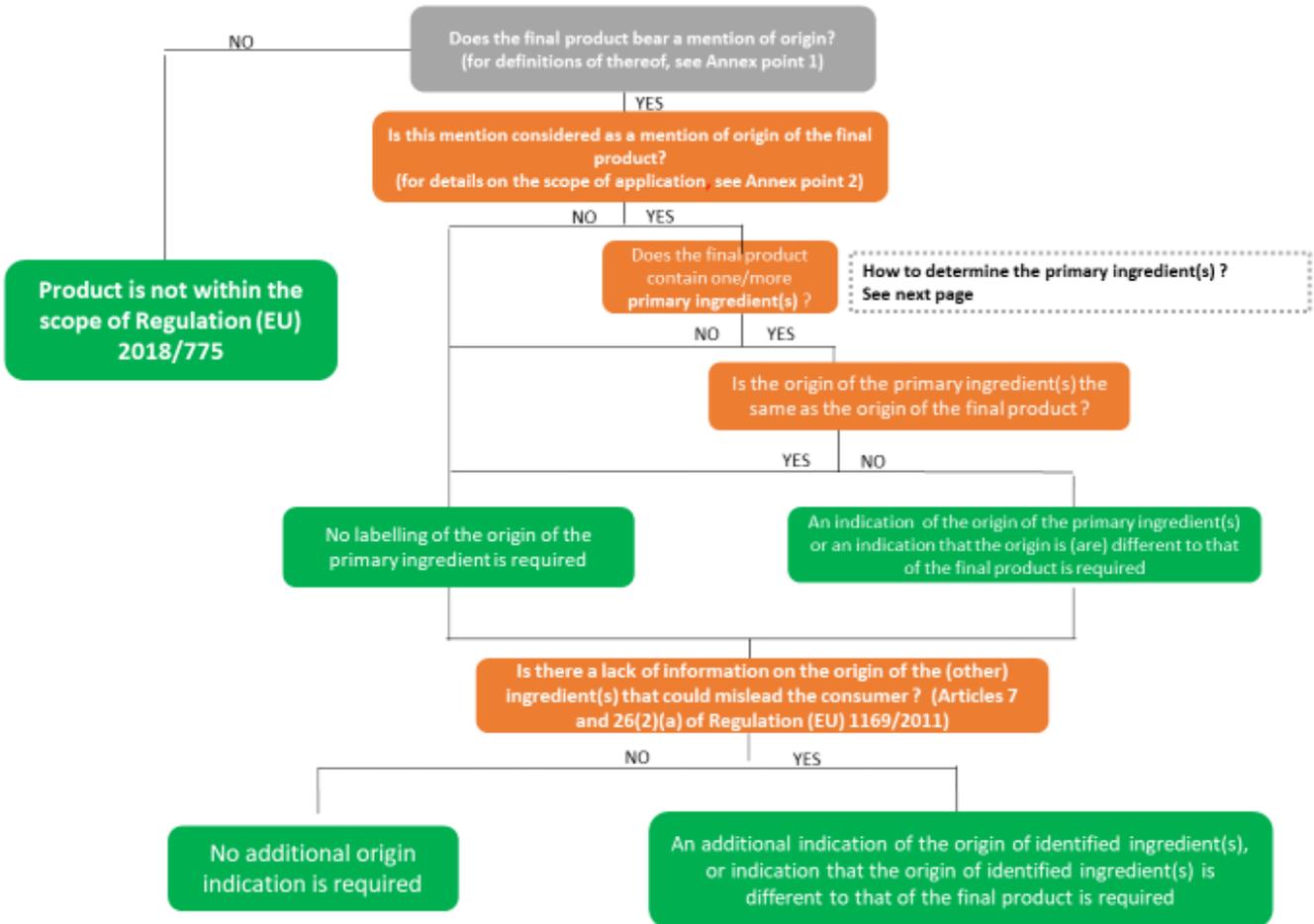
- Is there an indication of origin on the label?
- Does this require additional information on the label, and if yes, what information is required?
- Does the product contain a primary ingredient, and if yes, what is the primary ingredient?

The decision tree will not always provide a clear answer, since interpretation of legislation is not always straightforward and national differences in interpretation and language may occur. The legislation foresees that some decisions will be taken on a case by case basis.

The decision tree and its annex will help producers make a judgement, bearing in mind the overarching principle that the consumer must not be misled by the information on the label.

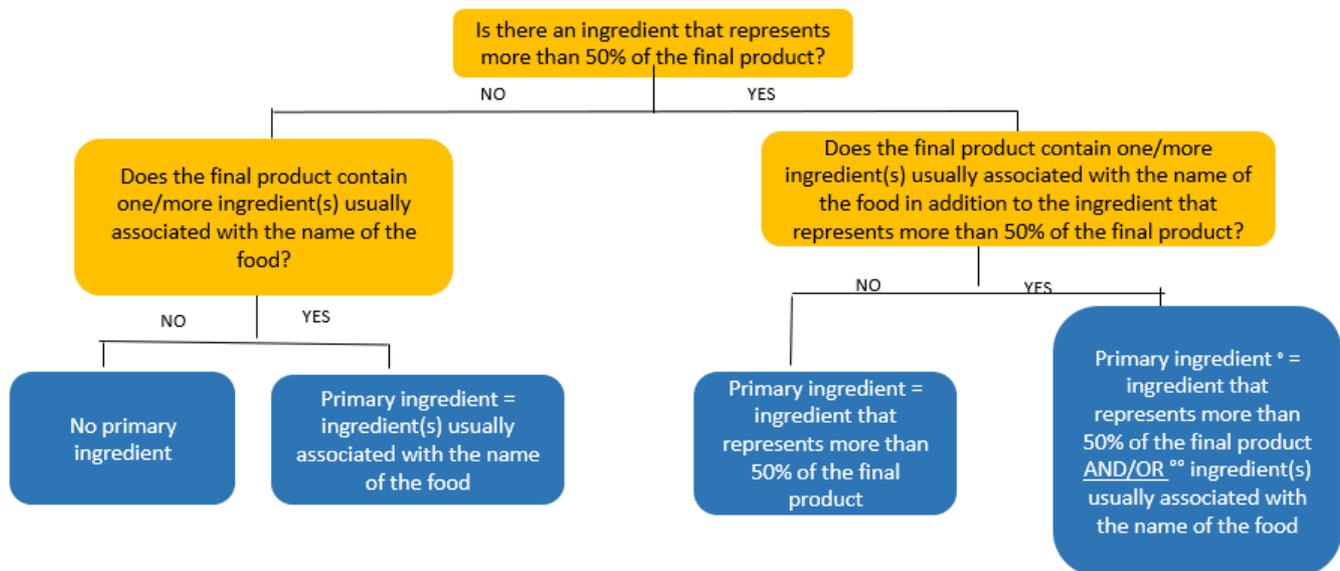
In addition to this decision tree, FBOs are advised to consult the European Commission Q&A document. It is the responsibility of the individual FBO (food business operator) to decide whether or not to use an indication of origin for a product and to ensure compliance with the law for their own products, as stated in the disclaimer.

# Decision tree



## How to define a primary ingredient of the final product?

- The Regulation (EU) 2018/775 makes reference to ingredients and not to raw materials.
- Ingredients of juice are defined in the Annex I of the Directive 2012/12/EU amending Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption.
- List of ingredients for fruit juices and nectars (according to Article 18 of Regulation (EU) 1169/2011): juice, juice from concentrate, puree, water (for nectars only), added pulp, added vitamins and minerals, sugars and/or honey and/or sweeteners (for nectars only), limited list of additives.



\* Primary ingredient (Article 2 (1)(q) of Regulation (EU) 1169/2011) - « *‘primary ingredient’ means 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 is required* »

\*\*This is one of the points where AIJN expects clarity on whether to read « or » as cumulative or alternative.

## **Blend of 2 or more fruit juices**

When there is more than one ingredient:

- It is usually the ingredient which represents more than 50% of the food that is considered to be the primary ingredient;
- If there are ingredients which are usually associated with the name of the food by the consumer, they can be considered as primary ingredients

It is up to the FBO to identify ingredients which are usually associated with the name of the food by the consumer.

When the origin of identified primary ingredients is not identical to the origin of the food, the indication of origin of those ingredients must be provided.

## **Multifruit juices**

It is often the case that in a multi-fruit juice (3 fruit juice types or more), there is no primary ingredient, because none of the ingredients represents more than 50% of that food nor is a particular ingredient usually associated with the name of the food.

However in blends like apple / grape / pear juice (as carriers) with fruit juices that have a strong taste and colour (e.g. cranberry, açai, blackcurrant), the final product might bear the character of the latter ones. Therefore an evaluation is needed on a case-by case basis, with special attention to what is potentially emphasized on the label of the final product.

## **Nectars**

In fruit nectars water is usually not considered as the primary ingredient even if it represents more than 50% of the final product. Therefore, in general terms only the juice and puree content is relevant in this context and the same interpretation as for fruit juices also applies to fruit nectars.

# ANNEX

## 1) Definitions of country of origin

**Country of origin (Article 2.3 of Regulation (EU) 1169/2011)** – It is the definition of country of origin laid down in the Customs Code Regulation (Article 60 of Regulation (EU) 952/2013) that applies for the purposes of the Implementing Regulation. According to this definition:

*(i) Goods wholly obtained in a single country or territory shall be regarded as having their origin in that country or territory.*

*(ii) Goods the production of which involves more than one country or territory shall be deemed to originate in the country or territory where they underwent their last, substantial, economically-justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.*

There might be several substantial transformations during the whole process. In this context the last substantial transformation is relevant. The customs legislation, in particular the determination of the country of origin, is common practice in the context of the Customs Code :

- If all manufacturing steps take place in one country, this is the country of origin.
- If manufacturing steps take place in more than one country, the country of origin is considered to be the country in which the last substantial, economically-justified processing took place.

Substantial economically justified processing or working in the fruit juice industry is for example:

- ✓ Reconstituting fruit juice from a fruit juice concentrate;
- ✓ Blending when important for product conception, so relevant for taste (know-how), e.g. multi-fruit juice or blends of the same fruit juice from different origin or varieties/species; or
- ✓ Any processing step leading to a new tariff code. Warning: the contrary is not valid: a substantial processing step doesn't systematically mean a change of the tariff code.

The chapter 20 of the custom taxation, which is used to define the origin for claims (non-preferential origin), stipulates that in case of mixing « *the origin of a mixture of products of heading 20.09 (fruit juices (including grape must) and vegetable juices, unfermented, whether or not containing added sugar or other sweetening matter) shall be the country of origin of the materials that account for more than 50% by weight of dry matter of the mixture.*

## 2) Scope of application

Article 1(1) of Commission Implementing Regulation (EU) 2018/775: *“This Regulation lays down the modalities for the application of Article 26(3) of Regulation (EU) 1169/2011 where the country of origin or place of provenance of a food is given by any means such as statements, pictorial presentation, symbols or terms, referring to places or geographical areas, except for geographic terms included in customary and generic names where those terms literally indicate origin but whose common understanding is not an indication of country of origin or place of provenance”.*

In principle, clear and visible flags and/or maps referring to a specific geographical territory should be considered as an origin indication and consequently, trigger the application of Article 26(3) of the Regulation.

The Commission is of the opinion that statements such as *“made in” / “produced in” / “product of”* are also under the scope of the Regulation.

### **Exemptions (not within the scope of the Regulation):**

- name/ business name and address of the food business operator;
- "packed in"/ "bottled in"/"produced by"/"manufactured by"/"packed by“;
- acronyms, pictorials or any other statements added voluntarily with the only purpose to help consumers to find their local language on multilingual labels;
- statements such as "kind", "type", "style", "recipe", "inspired by" "blend" or "à la“;
- protected geographical indications and trade marks (subject to additional criteria);
- 'tropical' and/or 'exotic' if not referring to a particular geographical area.