

Parliamentary questions
P-004368/2019
Priority question for written answer to the Commission
Rule 138
Heidi Hautala
(11 December 2019)

Answer in writing

Subject: Conformity checks for products originating from Western Sahara

Member State competent authorities are responsible for ensuring that ‘conformity checks are carried out selectively, based on a risk analysis, and with appropriate frequency, so as to ensure compliance with the marketing standards’ (Regulation No 543/2011) for fresh fruits and vegetables. EU marketing standards for such goods require the indication, ‘legibly and obviously’ and the ‘legible and conspicuous’ display of information particulars, including country of origin (Regulation No 543/2011).

In light of CJEU judgment C-104/16 P, Regulation No 1169/2011, and Directive 2005/29/EC, can the Commission confirm that:

1. It considers that produce originating from Western Sahara, and consignments containing such produce, conform to those marketing standards requirements when their indicated or displayed origin reads ‘Morocco’, ‘Kingdom of Morocco’ or equivalent terms in the language of the relevant Member State?
2. The approval of Morocco’s conformity checks by the Commission does not apply to products originating from Western Sahara, or to conformity checks carried out by Morocco’s Food Export Control and Coordination Organisation on such products prior to their export to the EU?
3. Member States may not, for conformity certificates for marketing standards covering products originating from Western Sahara, ‘consider’ the existence of such certificates as a factor reducing the risk of non-conformity?

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Answer given by Mr Wojciechowski
on behalf of the European Commission
(5.2.2020)

Commission Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors¹ provides for the criteria to be complied with for the marketing of those products. All imported products, including those originating from the Western Sahara, need to comply with the relevant legislation, including the requirement to provide accurate and not misleading information on the country of origin or provenance of those products, which in such case must thus be “Western Sahara”.

¹ OJ L 157 of 15.6.2011

In accordance with Article 15.4 of Commission Regulation (EU) No 543/2011, Morocco is one of the third countries where the conformity checks have been approved by the Commission. The Moroccan authorities are responsible for carrying out checks on conformity to marketing standards of fresh fruit and vegetables under their supervision and those authorities are responsible for contacts with the Union.

Following the Court of Justice's judgment of 21 December 2016², the European Union and the Kingdom of Morocco concluded an agreement on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the two parties, which entered into force on 19 July 2019³.

The decision on the conclusion of this amendment is currently subject to proceedings before the General Court (case T-279/19 *Front Polisario v Council*). Pending the judgement of the Court, the Commission is not in a position to comment further in detail on the interpretation or on the implementation of the amended agreement.

Member States' authorities are, within the binding interpretation given by the Court, responsible for ensuring the compliance with EU legislation related to the placing of foodstuffs on the market and the information to be provided to consumers.

² Case C-104/16 P (<http://curia.europa.eu/juris/document/document.jsf?docid=186489&doclang=en>)

³ OJ L 34 of 6.2.2019