



EUROPEAN
COMMISSION

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COMMISSION DELEGATED REGULATION (EU) .../...

of 16.10.2025

**amending Delegated Regulation (EU) 2023/2429 as regards origin labelling for fruit and
vegetables originating in the non-self-governing territory of Western Sahara**

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 76(1) of Regulation (EU) No 1308/2013 provides that products of the fruit and vegetables sector which are intended to be sold fresh to the consumer may only be marketed in the Union if the country of origin is indicated. Commission Delegated Regulation (EU) 2023/2429 supplements Regulation (EU) No 1308/2013 by setting out the marketing standards for the fruit and vegetables sector, certain processed fruit and vegetable products and the bananas sector and, in particular, the origin labelling rules which apply to those products.

In its judgments in Cases C-104/16 P¹ and C-266/16² the Court of Justice clarified that the territory of Western Sahara constitutes a non-self-governing territory distinct from that of the Kingdom of Morocco, and in its judgment in Case C-399/22³ the Court of Justice further clarified that the territory of Western Sahara must be regarded as a separate customs territory for the purposes of Article 60 of the Union Customs Code and, consequently, of Regulation (EU) No 1308/2013 and of Commission Implementing Regulation No 543/2011 (abrogated and replaced by Delegated Regulation (EU) 2023/2429) as regards the indication of the country of origin on the label of fresh fruit and vegetables harvested in that territory, which may designate only Western Sahara as such origin.

In compliance with the conditions laid out in the judgment of the Court of Justice in Joined Cases C-779/21 P and C-799/21 P⁴, the Union and the Kingdom of Morocco have negotiated an Agreement replacing the 2018 Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco⁵ the signature and provisional application of which has been approved by Council Decision (EU) 2025/2022⁶.

This new Agreement, which provisionally applies as from 4 October 2025, extends the bilateral preferences granted by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and

¹ Judgment of 21 December 2016, *Council v. Front Polisario*, C-104/16 P, ECLI:EU:C:2016:973, para 92-95.

² Judgment of 27 February 2018, *Western Sahara Campaign UK v Commissioners for Her Majesty's Revenue and Customs and Secretary of State for Environment, Food and Rural Affairs*, C-266/16, ECLI:EU:C:2018:118, para 62-63.

³ Judgment of 4 October 2024, *Confédération Paysanne v Ministre de l'Agriculture et de la Souveraineté alimentaire and Ministre de l'Économie, des Finances et de la Souveraineté industrielle et numérique*, C-399/22, ECLI:EU:C:2024:839, para 87.

⁴ Judgment of 4 October 2024, *Commission v. Front Polisario*, C-779/21 P and C-799/21 P, ECLI:EU:C:2024:835.

⁵ Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (OJ L 34, 6.2.2019, p. 4).

⁶ Council Decision (EU) 2025/2022 of 2 October 2025 on the signing, on behalf of the Union, and on the provisional application of the agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (OJ L 2025/2022, 3.10.2025, ELI: <http://data.europa.eu/eli/dec/2025/2022/0j>).

the Kingdom of Morocco, of the other part⁷, to products originating in the territory of Western Sahara that are subject to the control of Moroccan customs authorities. Moreover, in order to assure a clear distinction on the labelling of origin between those products and products originating in Morocco and to assure a correct information to Union consumers, it establishes that, when imported into the Union, fruit and vegetables originating in the non-self-governing territory of Western Sahara that are subject to the control of Moroccan customs authorities shall indicate as place of origin the name of the region where the product was harvested, as indicated in the certificate of origin accompanying such products at the moment of import in the Union. Moreover, the new Agreement provides that the Union may grant, in relation to the products in question, to the responsible Moroccan authorities the necessary authorisations to issue certificates of conformity with Union marketing standards, in accordance with Union legislation.

In regard to the implementation of the new Agreement, the Decision 2/2025, of 3 October 2025 of the EU-Morocco Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, amending Protocol 4 concerning the definition of the concept of 'originating products' and methods of administrative cooperation⁸, ensures that Protocol 4 to the Association Agreement is applicable to products originating in Western Sahara.

The aim of this Delegated Regulation is to align the Union applicable legislation with the referred new Agreement in the form of Exchange of Letters as regards the origin labelling of fruit and vegetables originating in Western Sahara and the possibility to authorise Moroccan competent authorities to check and, consequently, to certify the conformity of such products with the Union's marketing standards.

The adoption of this delegated act does not entail financial implications.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Consultations, involving experts from all the 27 Member States, have been carried within the Experts Group for Agricultural Markets established under Regulation (EU) No 1308/2013, in particular concerning aspects falling under the single CMO regulation – Horticultural products held on 6 October 2025 where a draft text was presented and agreed. The draft version of the present act is transmitted to the European Parliament and to the Council for scrutiny.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The delegated act amends Article 5 of Delegated Regulation (EU) 2023/2429 to include a specific derogation from Article 76(1) of Regulation (EU) No 1308/2013 and from Article 3

⁷ Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (OJ L 70, 18.3.2000, p. 2)

⁸ Council Decision (EU) 2025/2023 of 2 October 2025 on the position to be taken, on behalf of the Union, at the EU-Morocco Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, amending Protocol 4 of the Association Agreement concerning the definition of the notion of 'originating products' and methods of administrative cooperation (OJ L 2025/2023, 3.10.2025, ELI: <http://data.europa.eu/eli/dec/2025/2023/oj>).

of Delegated Regulation (EU) 2023/2429 as regards the compulsory indication of the country of origin for fresh fruit and vegetables originating in the non-self-governing territory of Western Sahara that are subject to the control of Moroccan custom authorities and to provide that for those products, as well as all other products covered by Article 1(2) of Delegated Regulation (EU) 2023/2429 originating in the same territory and subject to the control of the same authorities, the indication of the country of origin must be replaced by the indication of the region in which the concerned product originates as indicated in the certificate of origin accompanying those products when imported into the Union. It also includes in Article 9(3) of Delegated Regulation (EU) 2023/2429 the possibility for the Commission to authorise Moroccan competent authorities to check and certify the conformity of all or part of those products with the Union marketing standards.

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007¹, and in particular Article 75(2), Article 76(4) and Article 89, point (a), thereof,

Whereas:

- (1) Article 75(2) of Regulation (EU) No 1308/2013 empowers the Commission to adopt delegated acts on marketing standards for the sectors or products referred therein, as well as derogations and exemptions from such standards in order to adapt to constantly changing market conditions, to evolving consumer demands, to developments in relevant international standards and to avoid creating obstacles to product innovation.
- (2) Article 89, point (a), of Regulation (EU) No 1308/2013 empowers the Commission to adopt delegated acts concerning the conditions under which imported products are considered to have an equivalent level of conformity to the Union marketing standards and conditions allowing derogation from Article 74 of that Regulation in order to take into account the specific characteristics of trade between the Union and certain third countries and the special character of certain agricultural products.
- (3) Article 76(1) of Regulation (EU) No 1308/2013 provides that products of the fruit and vegetables sector which are intended to be sold fresh to the consumer may only be marketed in the Union if the country of origin is indicated, while Article 76(4) of that Regulation empowers the Commission to adopt delegated acts derogating from that rule to take into account certain specific situations.
- (4) Commission Delegated Regulation (EU) 2023/2429² supplements Regulation (EU) No 1308/2013 by setting out the marketing standards for the fruit and vegetables sector, certain processed fruit and vegetable products and the bananas sector and, in particular, the rules on origin labelling which apply to those products. Article 3 of that Delegated Regulation provides for the compulsory indication of the country of origin also for certain dried fruits and ripened bananas.

¹ OJ L 347, 20.12.2013, p. 671, ELI: <http://data.europa.eu/eli/reg/2013/1308/oj>.

² 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, ELI: http://data.europa.eu/eli/reg_del/2023/2429/oj).

(5) In its judgments in Cases C-104/16 P and C-266/16³ the Court of Justice clarified that the territory of Western Sahara constitutes a non-self-governing territory distinct from that of the Kingdom of Morocco, and in its judgment of 4 October 2024 in Case C-399/22⁴ the Court of Justice further clarified that the territory of Western Sahara is to be regarded as a separate customs territory for the purposes of Article 60 of the Union Customs Code and, consequently, for the purposes of Regulation (EU) No 1308/2013 and of Commission Implementing Regulation (EU) No 543/2011 (repealed and replaced by Delegated Regulation (EU) 2023/2429) and that, accordingly, the indication of the country of origin which must appear on fresh fruit and vegetables harvested in that territory may designate only Western Sahara as such origin.

(6) In its judgment of 4 October 2024 in Joined Cases C-779/21 P and C-799/21 P⁵, the Court of Justice confirmed the annulment of Council Decision (EU) 2019/217⁶ on the conclusion of the agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco. The Court of Justice maintained the effects of the annulled Council Decision for twelve months from the date of the ruling, i.e. until 4 October 2025.

(7) In accordance with the judgment of 4 October 2024 in Joined Cases C779/21 P and C799/21 P and in order to ensure a clear distinction on the labelling of origin between products originating in the territory of Western Sahara that are subject to the control of Moroccan custom authorities and those originating in Morocco, as well as correct information to Union consumers, a new Agreement in the form of an Exchange of Letters, which has been signed by the Kingdom of Morocco and by the Union and applies provisionally from 4 October 2025⁷, establishes that fruit and vegetables originating in the non-self-governing territory of Western Sahara that are subject to the control of Moroccan custom authorities, when imported into the Union, shall indicate, as place of origin, the name of the region where the product was harvested as indicated in the certificate of origin accompanying those products at the moment of import in the Union. Moreover, the new Agreement provides that the Union may grant, in relation to the products in question, to the competent Moroccan authorities the necessary authorisations to check and, consequently, to issue certificates of conformity with Union marketing standards, in accordance with Union legislation.

³ Judgments of the Court of Justice of 21 December 2016, *Council v Front Polisario*, C-104/16 P, ECLI:EU:C:2016:973, paragraph 92, and of 27 February 2018, *Western Sahara Campaign UK v Commissioners for Her Majesty's Revenue and Customs and Secretary of State for Environment, Food and Rural Affairs*, C-266/16, ECLI:EU:C:2018:118, paragraph 62.

⁴ Judgment of the Court of Justice of 4 October 2024, *Confédération paysanne v Ministre de l'Agriculture et de la Souveraineté alimentaire and Ministre de l'Économie, des Finances et de la Souveraineté industrielle et numérique*, C-399/22, ECLI:EU:C:2024:839, paragraph 87.

⁵ Judgment of the Court of Justice of 4 October 2024, *Council of the European Union vs Polisario Front* in joined Cases C-779/21 P and C-799/21 P, ECLI:EU:C:2024:835.

⁶ Council Decision (EU) 2019/217 of 28 January 2019 on the conclusion of the agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (OJ L 34, 6.2.2019, p. 1, ELI: <http://data.europa.eu/eli/dec/2019/217/oi>).

⁷ Council Decision (EU) 2025/2022 of 2 October 2025 on the signing and on the provisional application of the agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (OJ L 2025/2022, 3.10.2025, ELI: <http://data.europa.eu/eli/dec/2025/2022/oi>).

(8) Decision 2/2025, of 3 October 2025 of the EU-Morocco Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, amending Protocol 4 of the Association Agreement concerning the definition of the concept of 'originating products' and methods of administrative cooperation⁸, lays down provisions to ensure the applicability of Protocol 4 to products originating in Western Sahara. That Decision further specifies the name of the regions, 'Dakhla Oued Ed-Dahab' and 'Laâyoune-Sakia El Hamra', as appropriate, to be indicated in the certificate of origin accompanying the products in question as well as in the origin declaration.

(9) In order to implement the new Agreement and the EU-Morocco Association Council Decision of 3 October 2025, it is necessary to derogate from Article 76(1) of Regulation (EU) No 1308/2013 and from Article 3 of Delegated Regulation (EU) 2023/2429 to provide that for fruit and vegetables originating in the territory of Western Sahara that are subject to the control of Moroccan custom authorities and are imported and marketed in the Union, the indication of the country of origin is replaced by the indication of the region in which the product originates as indicated in the certificate of origin accompanying those products at the moment of import in the Union.

(10) Article 9(3) of Delegated Regulation (EU) 2023/2429 limits the approval of checks of conformity to marketing standards carried out by certain third countries to products originating in such third countries. In order to allow the Union to grant the Moroccan competent authorities the authorisation to carry out checks of conformity and, consequently, to certify compliance with Union marketing standards for fresh fruit and vegetables originating in the non-self-governing territory of Western Sahara that are subject to the control of Moroccan custom authorities and are imported and marketed in the Union, it is appropriate to include in that Article the possibility for the Commission to approve checks of conformity to marketing standards conducted by Moroccan competent authorities in respect of those products.

(11) To avoid any disruption to trade covered by the extension of preferences provided for by the new Agreement, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(12) As the new Agreement is provisionally applicable as from 4 October 2025, this Regulation should apply retroactively from the same date.

(13) However, fruit and vegetables originating in the non-self-governing territory of Western Sahara and subject to the control of Moroccan custom authorities that were lawfully imported into the Union before the entry into force of this Regulation bearing the indication of Western Sahara as country of origin, should be allowed to continue to be marketed within the Union after that date, until stocks are exhausted and provided that such products continue to conform with all other requirements of the applicable Union marketing standards.

⁸ Council Decision (EU) 2025/2023 of 2 October 2025 on the position to be taken, on behalf of the Union, at the EU-Morocco Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, amending Protocol 4 of the Association Agreement concerning the definition of the notion of 'originating products' and methods of administrative cooperation

(OJ L 2025/2023, 3.10.2025, ELI: <http://data.europa.eu/eli/dec/2025/2023/oj>).

(14) Delegated Regulation (EU) 2023/2429 should therefore be amended accordingly,
HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2023/2429 is amended as follows:

(1) in Article 5, the following paragraph 6 is added:

‘6. By way of derogation from Article 76(1) of Regulation (EU) No 1308/2013 and from Article 3 of this Regulation, for products referred to in Article 1(2) of this Regulation originating in the non-self-governing territory of Western Sahara that are subject to the control of the Moroccan custom authorities and are imported and marketed in the Union, the indication of the country of origin shall be replaced by the indication of the region in which the concerned product originates as indicated in the certificate of origin accompanying those products when imported into the Union.’;

(2) in Article 9, paragraph 3 is replaced by the following:

‘3. The approval shall only apply to products originating in the third country concerned and may be limited to certain products.

However, the Commission may approve checks of conformity to marketing standards carried out by Moroccan competent authorities in respect of products originating in the non-self-governing territory of Western Sahara that are subject to the control of Moroccan custom authorities.’.

Article 2

Products referred to in Article 1(2) of Delegated Regulation (EU) 2023/2429 originating in the non-self-governing territory of Western Sahara and subject to the control of Moroccan custom authorities that were lawfully imported into the Union before the entry into force of this Regulation bearing the indication of Western Sahara as country of origin, may continue to be marketed within the Union after that date, until stocks are exhausted and provided that they continue to conform with all other requirements of the applicable Union marketing standards.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 4 October 2025.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16.10.2025

*For the Commission
The President
Ursula VON DER LEYEN*