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**Implications of Regulation (EU)
No. 1169/2011**

Background

At the 109th session of the International Coffee Council, Members requested information regarding Regulation (EU) No. 1169/2011 published in November 2011, which dealt with the labelling of origin, and its implications for coffee-producing countries. The ICO Executive Director subsequently wrote to the European Union on this subject, which is handled by the Directorate General for Health and Consumers (DG Sanco). Due to limited resources, a representative of DG Sanco was not able to report on this matter to the Council. Therefore, a conference call was scheduled between the Secretariat and a representative of DG Sanco in July 2013. As a result, this document provides a summary of the Regulation and its potential implications for the coffee sector.

Action

The Council is requested to take note of this document.

IMPLICATIONS OF REGULATION (EU) NO. 1169/2011

Introduction

1. In January 2008, the European Commission adopted a draft Regulation regarding the nutritional information and packaging of food products. This proposal aimed to clarify and bring up to date food labelling legislation for the benefit of consumers, businesses and control authorities. The draft Regulation was adopted by the European Parliament and the Council in October 2011, and entered into force on 12 December 2011. It will apply from **13 December 2014**, with the provisions concerning nutritional declarations applying from **13 December 2016**.

2. This new Regulation combines and updates two previous Directives: No. 2000/13/EC relating to the labelling, presentation and advertising of foodstuffs, and No. 90/496/EEC on nutrition labelling for foodstuffs. The general labelling of foodstuffs includes aspects such as place of origin, presence of allergens and lists of ingredients, and nutritional labelling covers issues such as energy values, fat content, and the amount of sugar and salt. Within the Regulation there are also specific provisions regarding requirements for such aspects as the legibility of the label, for example the minimum font size, and the location or size of the label.

3. In terms of next steps, by 13 December 2013 the European Commission is obliged to adopt “Implementing Acts” on the mandatory and voluntary indications of origin or provenance, following the completion of impact assessments on food labelling and nutritional declaration issues. It will also submit a report to the European Parliament and the Council on the mandatory indication of origin or provenance.

Potential implications for coffee

4. The articles which could have implications for coffee are predominantly those concerning the labelling of country of origin or place of provenance, which come under Article 26 of the Regulation. Article 26 (2) of the legislation provides that indication of the country of origin or place of provenance shall be mandatory in the case of certain meat products, and:

“... where failure to indicate this might mislead the consumer as to the true country of origin or place of provenance of the food, in particular if the information accompanying the food or the label as a whole would otherwise imply that the food has a different country of origin or place of provenance; ...”

5. However, given that it is generally well known that coffee is not grown within the European Union, and consumers are unlikely to confuse the place of packaging or roasting with the initial origin of the coffee, it not considered likely that coffee will fall under the provisions of this article. Furthermore, this article is not a new introduction to the Regulation, but rather is a continuation of the previous legislation in Directive No. 2000/13/EC.

6. On the other hand, there is a new provision in Article 26 (3), which could potentially have implications for the coffee sector:

“Where the country of origin or the place of provenance of a food is given and where it is not the same as that of its primary ingredient:

- (a) the country of origin or place of provenance of the primary ingredient in question shall also be given; or
- (b) the country of origin or place of provenance of the primary ingredient shall be indicated as being different to that of the food.”

7. The main issue regarding this provision will be the scope of application, which has yet to be confirmed. The Commission is currently going through the process of completing the Impact Assessment for the Regulation, the Terms of Reference for which are available on the EC website at:

http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/proposed_legislation_en.htm

8. Subsequently, the Commission will draft the “Implementing Acts” for the Regulation, according to Article 26 (8), which requires the Commission to adopt the Implementing Acts by 13 December 2013. Furthermore, by 13 December 2014, the Commission is required to submit reports to the European Parliament and the Council regarding the mandatory indication of the country of origin or place of provenance for specific types of food products, including single ingredient products. According to Article 26 (7), these reports should:

“... take into account the need for the consumer to be informed, the feasibility of providing the mandatory indication of the country of origin or place of provenance and an analysis of the costs and benefits of the introduction of such measures, including the legal impact on the internal market and the impact on international trade.”

9. The Regulation also provides for a mandatory nutritional declaration, containing information on energy values and the amounts of fat, saturates, carbohydrate, sugars,

protein and salt. However, there is a specific exemption for coffee products given in Annex V for “whole or milled coffee beans and whole or milled decaffeinated coffee beans”, as well as “coffee extracts and chicory extracts”. The nutritional declaration should therefore not be applicable to these coffee products.

10. The enforcement of Regulation (EU) No. 1169/2011 will ultimately be up to national control authorities, and therefore to some extent the scope of enforcement could vary on a country-to-country basis. The Commission is currently in the process of completing the Impact Assessment reports, which will then be discussed with EU Member States. It is therefore recommended that the ICO continue to monitor developments in the implementation of Regulation (EU) No. 1169/2011, and to engage with representatives of the EU on this issue going forward.