Indication of origin

POSITION PAPER

Date: 31 May 2013

EXECUTIVE SUMMARY

EuroCommerce strongly rejects the inclusion of the indication of origin in the Consumer Product Safety Regulation proposal of the Commission (COM(2013)0078)*.

It will not contribute to traceability of products or to safer products for consumers.

Instead the indication of origin will lead to more administrative burdens and red tape for businesses and public authorities, hinder the development of a truly competitive and sustainable single market, and lead to higher prices for consumers.

EuroCommerce asks the European Parliament, the Council and the Commission to delete article 7 in the Commission’ s proposal.

** This position does not reflect the opinion of the EuroCommerce member Confcommercio-Imprese per l’Italia (The Italian Confederation of Entreprises, Professional Occupation and Self-Employment).*

Ilya Bruggeman
Adviser on Internal Market and Consumer Affairs
T: +32 2 737 05 96
bruggeman@eurocommerce.be

Julien Bouyeron
Project assistant
T :+32 2 738 06 49
bouyeron@eurocommerce.be

Emilie Prouzet
Director for European Affairs, FCD
EuroCommerce issue leader Product Safety
T :+32 2 472 600 274
prouzet@fecd.eu

Background: Failure of the "Made in" Directive

The European Commission tried unsuccessfully for seven years to introduce "Made in[1]" only for certain sectors and products from third countries. In mid-January 2013, the Commission withdrew its proposal (COM(2005), 661) because it could not find a majority of member states to support the introduction of "Made In".

A few days after this decision, the Commission introduced an almost identical, but even farther-reaching, proposal under the heading "consumer safety". This effort under the guise of consumer safety not only snubs the member states, but it also gives a false perception of the safety benefits that indications of origin might bring.

Article 7 of the proposal for a regulation on consumer product safety (COM (2013), 78) from 13 February 2013 states:

Article 7 – Indication of Origin

1. *Manufacturers and importers shall ensure that products bear an indication of the country of origin of the product or, where the size or nature of the product does not allow it, that indication is to be provided on the packaging or in a document accompanying the product.*
2. *For the purpose of determination of the country of origin within the meaning of paragraph 1, non-preferential origin rules set out in Articles 23 to 25 of Council Regulation (EEC) No 2913/92 establishing a Community Customs Code1 shall apply.*
3. *Where the country of origin determined in accordance with paragraph 2 is a Member State of the Union, manufacturers and importers may refer to the Union or to a particular Member State.*

Obligatory Indication of Origin: Huge Cost – No Benefit

The European Commerce sector rejects the origin requirement in this regulation. It would be an ineffective measure that would not only fail to solve any real problems, but would also bring serious consequences for importers and exporters. It is essentially a protectionist measure and should be recognised as such. It is beyond the scope and subject matter of this regulation and it has no relevance for safety.

Indication of Origin has nothing to do with Product Safety

1. Indications of origin are excessive and do not help traceability: Existing rules are sufficient

In recital 21 of the proposal, the sole reason behind the obligatory indication of origin is given: this measure should make the improved traceability of products possible.
The benefit of these measures for the traceability of products is however negligible. Designations of origin are not necessary for consumer safety, since the manufacturer, importer and seller must be indicated regardless (Art. 8 and 10). If this information is missing, simply knowing the country of origin will not be of great help to trace the product further. Moreover, manufacturers, importers and sellers are legally obligated to retain their data for ten years anyway.
This means, especially in light of the negative consequences described below, that the additional requirement to record the country of origin for the purpose of improving traceability is superfluous and excessive.

2. Indications of origin provide no guarantees of safety

The rules in the Product Safety Directive have so far ensured that all products on the European market meet stringent consumer safety requirements. Obligatory indications of origin would not achieve any additional gains in consumer safety.

[1] *Made-in label, origin-marking, origin labelling and indication of origin are in essence the same concept.*

EuroCommerce a.i.s.b.l.
Avenue des Nerviens 85, B-1040 Brussels
F: +32 2 230 00 78
www.eurocommerce.be

Products are often produced in global supply chains that span multiple countries. Indicating one single country as the country of origin therefore provides no additional consumer safety and can lead to misinformation. The origin according to customs law is no indication of quality.
Products, such as textiles for example, are not manufactured in one place or in one country. Design and product development occur mostly in Europe. The raw materials are also often manufactured here. Only the sewing and assembly occur in third countries. Identifying the location of the last step of production provides barely any information about the origin and safety of the product, and it says absolutely nothing about how much of the production process took place in Europe.
Combining market surveillance and consumer protection with customs law is wrong. The rules about countries of origin derive from WTO rules and Art. 24 of the EU Customs Code. The primary function of rules of origin relates to trade policy. Consumer safety and product protection are not the focus and may not influence or be superimposed on the requirements of trade policy.

3. Expanding instead of contracting bureaucracy

Businesses will be burdened with new bureaucratic rules that will cost a great deal of time and money to comply with. These costs will eventually be paid for by importers and consumers and will especially hurt small and medium-sized businesses that produce their merchandise in smaller quantities. It will also endanger jobs and hurt competitiveness. The above-mentioned study of the textile industry estimates that requiring an indication of origin on all imports will cost businesses 620 to 925 million Euros in the first five years.

Obligatory Indication of Origin will Not Support a True Single Market

4. Creating instead of removing trade barriers

The obligation to mark goods is fundamentally opposed to the EU's efforts to reduce trade barriers worldwide. By adopting such measures, for example, the EU would risk losing credibility in the negotiations with the USA over the Transatlantic Trade and Investment Partnership, since they would be introducing a protectionist measure while simultaneously criticizing the USA's especially stringent consumer protection laws.

5. Risk of discrimination against imported products

The danger exists that obligatory indications of origin might lead to discrimination against products from trade partners outside of the EU. Third countries might then enact retaliatory import restrictions, which might disadvantage EU exports. A cautionary example is the "Buy USA" campaign, which has made it more difficult for European products to break into the American market.

6. Danger even for the brand "Made in the EU"

Should the EU replace the non-preferential rules of origin with WCO list rules – as is currently being debated – then many products that are currently designated "Made in Germany" or "Made in member state X" could no longer carry the "Made in the EU" label, even on the domestic European market.
The following example demonstrates this: For the manufacture of handbags, individual leather pieces are cut in Tunisia and sent to Germany. There, a German company sews them together in a special facility to finish the bags. Under current EU non-preferential rules of origin, which are based on the location of the last significant, economically justified processing, the bags would originate in Germany according to customs law. However, according to WCO list rules, the handbags would have their non-preferential origin in Tunisia in this case. Although the last significant manufacturing step occurred in Germany, the marking "Made in Germany" or Made in EU" would not be permitted.

7 Business nor consumers want indication of origin

On top of that, "Made in" labels do not appear to influence the purchasing decisions of consumers all that much. A report on "Made in" labels due from the Commission by January 2013, in accordance with Regulation Nr. 1007/2011, underlines this point. The study came to the conclusion that consumers are not interested in "Made in" markings. Instead of following these objective results, the Commission made a new "Made in" proposal. Until now, not even consumer advocacy groups called for such a proposal.

8 No protection against piracy

Requiring indications of origin does not protect against piracy. For counterfeiters, it makes no difference if they fake a logo, a design or an indication of origin.
According to comprehensive risk analyses, member state authorities can at best inspect only 2% of the flow of goods. The introduction of new control mechanisms to check for indications of origin would fail due to a lack of control officials in the member states. Member states' member states authorities should use their resources to enforce more efficient controls, rather than to check for information that consumers are not interested in and do not make the goods more traceable.

9. Not a reliable indication of environmental and social standards

The proposed rule, which was already rejected once and is now appearing "in new clothes", serves to reinforce consumers' prejudices. It is impossible to tell the quality of a product or the producer's conformity to social and environmental standards based solely on the country of origin as it is defined by customs law. "Good", high-quality, sustainable products can come from the same country as "bad", low-quality products.

10. Voluntary indication of origin is still possible

The voluntary declaration of the country of origin has already been possible for a long time. Producers may mark their goods if indicating the country of origin brings a competitive advantage. According to German courts, the designation "Made in Germany" or "Made in country X" may be applied to goods if, from the consumers' point of view, the goods' defining characteristics and value-added were produced in the given country.

EuroCommerce and the commerce sector

EuroCommerce represents the retail, wholesale and international trade sectors in Europe.
Its membership includes commerce federations and companies in 31 European countries.

Commerce plays a unique role in the European economy, acting as the link between manufacturers and the nearly 500 million consumers across Europe over a billion times a day. It is a dynamic and labour-intensive sector, generating 11% of the EU's GDP. One company out of three in Europe is active in the commerce sector. Over 95% of the 6 million companies in commerce are small and medium-sized enterprises. It also includes some of Europe's most successful companies. The sector is a major source of employment creation: 31 million Europeans work in commerce, which is one of the few remaining job-creating activities in Europe. It also supports millions of dependent jobs throughout the supply chain from small local suppliers to international businesses.