

The following document contains the results of the consultation process on an EU origin marking scheme launched by the Commission Services in January 2004. On the basis of this document the 133 Committee has been consulted and endorsed the overall conclusions and proposed next steps.

After the conclusion of the consultation process some further industry sectors (the industries of brass valves and optometry and optics have expressed also their support for the introduction of an EU origin marking scheme for imported goods).

CONSIDERATION OF AN EU ORIGIN MARKING SCHEME

Consultation Process, Analysis and Next Steps

CONTENTS

1. BACKGROUND

2. THE CONSULTATION PROCESS

- 2.1. Respondents' arguments in support of an EU origin marking scheme
- 2.2. Respondents' arguments defending the status quo

3. ANALYSIS AND COMMENTS ON THE ARGUMENTS PUT FORWARD

4. CONCLUSIONS AND NEXT STEPS

ANNEXES

Annex 1. Organisation of the consultation process

- 1. Industry and trade unions
- 2. Consumers' Associations and NGOs
- 3. Associated third countries
- 4. Other Institutions

Annex 2. Written positions by participants

- 1. Industry and trade unions
 - 1.1. List of participants
 - 1.2. Positions
- 2. Consumers' Associations and consumers' views
 - 2.1. List of participants
 - 2.2. Positions
- 3. Member States and Associated countries

Annex 3. Summary of positions

- 1. Industry and trade unions
- 2. Consumers' Associations
- 3. Member States and Associated countries

1. BACKGROUND

In December 2003 the Commission Services submitted to the 133 Committee a working document¹ on the consideration of an EU origin marking scheme for goods, responding to a renewed interest in the issue shown by some industry sectors and Member States.

The working document analysed the current legal situation on the subject (different Member States' regulations under a voluntary approach; compulsory origin marking for imported goods under the legislation of major EU trade partners) and presented three possible options to be adopted if a change in the status quo were warranted. The three options were:

1. An EU-wide regulation governing the use, on a voluntary basis, of origin marking for both imported goods and EU domestic production.
2. An EU-wide regulation requiring compulsory origin marking for imported goods and voluntary EU origin marking on domestic production.
3. An EU-wide regulation providing for compulsory origin marking for both imported goods and for domestic production.

A fourth option was implicitly present: the maintenance of the status quo.

The implications of the above mentioned options, and the potential advantages and disadvantages associated with an EU origin marking scheme, were also set out in the document. Among the possible advantages: an improvement of consumer information; a contribution to the fight against misleading labels; the equalisation of costs between imports into the EC of third country products and EU exports to the main trade partners; the introduction of greater homogeneity and clarity across the EU internal market; and the promotion of the image and attractiveness of EU products. In relation to possible disadvantages, the document referred to possible additional burdens for business to comply with compulsory schemes, the costs incurred by public administrations responsible for checking the application of the scheme and the risk that national origin marking schemes would constitute an unjustified barrier to intra-Community trade. A reflection on the practical need for greater homogeneity across the internal market, the extent of consumers' interest in information on country of origin, and the commercial value of origin marks was also presented.

2. THE CONSULTATION PROCESS

The main aim of the paper being to stimulate a debate on the possibilities/interest of implementing such a scheme, the Commission launched a consultation process in January of the main parties interested: European industry federations, consumers' associations, trade unions and NGOs. Member States were invited to take soundings domestically. Some associated third countries presented their views to the Commission.

The organisation of the consultation process is set out in Annex 1.

¹ 133 Committee Document 581/03. See the text in <http://trade-info.cec.eu.int/doclib/html/115557.htm>

The consultation process took place between January and early May and included general, sectoral and bilateral meetings, presentations and other contacts. The Commission received the positions of 27 European Industry federations, trade unions and some national federations, covering a wide range of industrial sectors. Five national consumer associations also expressed their positions in writing. EFTA countries and Turkey have attended several meetings on the issue and submitted their comments. Several parliamentary questions have been also addressed to the Commission and comments, suggestions and questions by industries and individuals have been also received. Surprisingly, no views were received from the Economic and Social Committee or from the relevant Committees of the European Parliament, although some individual MEPs did send in comments.

The positions received during the consultation process have been ordered in three groups concerning industry and trade unions, consumers associations and Member States and Associated countries. In the interest of clarity, positions have been tabulated and classified according to the three options presented in the working document while adding a fourth option, namely the maintenance of the status quo. See table at Annex 2.

It should be noted that sometimes the positions expressed did not clearly favour a specific option, or in some cases supported two or more options in subsidiary order. In some other cases, federations addressed only the choice between two options, and not the whole range. Most typically, several federations expressed their views on a choice between maintaining the status quo, or introducing compulsory origin marking for EU products and were silent on the other options. In other cases, and considering the large number of members making up the federations and associations participating in the consultation process, some federations were unable to agree on a single position. In these cases, particular positions appear besides the general position of the federation/association. All these aspects have been reflected in the table at Annex 2. In addition, for transparency reasons, a summary of the contents of each position has also been included as Annex 3.

Most of the written comments received focussed on a fairly narrow range of issues related to advantages or disadvantages of developing a compulsory EU origin marking scheme for domestic products. Points made basically related to consumer information needs, costs, controls, the relation between “made in the EU” and national origin marks, and the definition of the country of origin. In addition, some comments contained particular requests or suggestions regarding the implementation of the scheme.

It should be noted that the arguments set out under points 2.1 and 2.2 should not be construed as reflecting the Commission’s position, but merely summarize the arguments that respondents sent to the Commission.

2.1 Respondents’ arguments in support of an EU origin marking scheme

Among the arguments put forward by respondents, the following supporting the development of an EU origin marking scheme were notable:

Aspects related to consumers

- An origin marking scheme would improve consumer information. There is increasing interest from consumers for information on the origin of the products that they purchase.
- An origin making scheme would be an important tool to prevent or reduce consumer deception or deceptive practices.
- An origin marking scheme would be a tool to enhance market transparency.
- Such an scheme would eliminate the discrimination against European consumers in relation to third countries' consumers who are provided with this type of information.
- An origin marking scheme would imply harmonisation of the origin marking requirements within the internal market.
- It would eliminate the legal vacuum in the area.

Arguments focusing on the “Made in the EU” origin marking

- The introduction of a “made in the EU” marking scheme would not imply significant costs. There would be no real difference in adding a “made in the EU” label to current national labels.
- A “made in the EU” claim could develop into an important marketing tool considering that, for the European consumer, EU products have a high quality reputation. It would enhance the perception of the internal market.
- A made in the EU mark could be a first step towards recognition of EU origin in third countries legislation. At present, absence of such recognition increases costs for EU exporters.

Control aspects

- Control of false origin marking would be provided by the national administrations of every Member State with the same efficiency.
- An EU origin marking scheme would be a useful additional instrument against counterfeiting, origin fraud and unfair competition which is now a major problem affecting the viability of numerous key European manufacturing sectors, and creates unemployment and company failures.

Costs/ investment

- An EU origin marking scheme would equalize costs to European industry exporting towards third countries which require origin marking and foreign producers exporting to the EC market.
- Most EC products are already origin marked or labelled, while under EC rules the origin of products must in any case be known by the producer, so it should not represent supplementary costs.
- It would also equalize global competitiveness of European industries compared to those competitors producing at lower costs through social and environmental dumping.
- Manufacturing processes will return to Member States through the implementation of such an initiative because of the incentive of the European origin mark: It would attract domestic and foreign investment. Manufacturers would find it worthwhile to produce inside the EU in order to obtain EU origin marking which would be an attractive marketing “brand” tool.

- A single scheme would eliminate costs related to producing, stocking and distributing goods separately.
- Origin marking schemes are a common and more and more extended practice in the EC's main trading partners.

In addition to the arguments set out above, several federations and associations also made specific comments in favour of option 2 (compulsory marking for imported goods). In particular they noted that:

- European industries would not be obliged to assume additional cost.
- Instead this would equalize costs between domestic goods and imports, and in doing so encourage manufacturing investment in Europe.
- Option 2 would as with option 3 promote consumer information and choice.

2.2. Respondents' arguments defending the status quo:

Several federations and associations raised objections to a compulsory "made in the EU" origin marking scheme for domestic goods, while a smaller number also voiced reservations about marking of imports. The principal objections were as follows:

Costs

- An EU origin marking scheme would imply costs for administrations to verify the accuracy of the origin marks. New authorities would have to be designated to carry out this task.
- It would not promote investment in Europe.

Barriers/discrimination

- To change the status quo would imply barriers to intra-Community trade.
- Compulsory origin marking of imports would represent a non-tariff barrier and a form of protectionism incompatible with the GATT. Even option 3 would be discriminatory for imports because it could be an instrument to influence consumer's choice.
- The implementation of this scheme could overlap or conflict with current international negotiations such as the TRIPs negotiations on strengthening protection for geographical indications, or the trade facilitation agenda.

Unnecessary tool

- An EU origin marking scheme would not be an instrument against counterfeiting: origin marking could also be faked. Counterfeiting problems might be better resolved through other mechanisms such as better implementation/regulation of IP legislation, criminal and consumer protection regulations.
- Branding may be much more important than the origin of a product in relation to consumer information. Geographical origin is anachronistic: consumers are more interested in brands, image and quality.

"Made in the EU"

- “Made in the EU” would not be an acceptable replacement for respected national marks.
- The introduction of a “made in the EU” claim could create incompatibility problems or overlap with existing labels such as “CE” marking or quality marks.
- A “made in the EU” origin mark would have no added value. There is no knowledge base of the EU as a whole. The EU internal market is not a country.
- If a “made in the EU” is accepted, a “made in Asia”, made in NAFTA” or similar marks should be also accepted.
- A “made in the EU” claim would mean double costs when exporting because third countries would continue to request the origin marks of Member States.
- A “made in the EU” origin mark would not provide a clear indication on the origin of a product in view of the vagueness of the concept. Price and quality are not the only parameters to be considered by consumers. Environmental issues, production methods, etc are also retained by consumers to make their choice.

Difficulties to determine country of origin

- It would be difficult to determine the country of origin of goods given delocalisation and global production processes.
- There are differences between the concept of country of origin for customs and for labelling purposes, but the same rules would apply for both cases.
- It is not clear what type of rules should apply to determine the country of origin and industries would have to assume the burden of these uncertainties.
- If the final product is made in the EU, even by using foreign components, non preferential rules of origin would allow the product to be marked as being of EU origin.

Relationships with national origin marks

- National origin marks could be negatively affected because they are currently flexibly used without any specific legal framework, and a regulation on the subject could prevent products now using these claims from doing it under an EU regulation.
- Existing national marks provide enough information.
- The principles of subsidiarity, moderation and decentralisation should be considered.

3. ANALYSIS AND COMMENTS ON THE ARGUMENTS PUT FORWARD

One of the most remarkable features of the consultation process was the level of misunderstanding on the real content and scope of the different options and their implications. In their presentations and meetings with federations and associations, the Commission services tried to dispel such misunderstandings, but even after that some persisted, perhaps wilfully in some cases. Among the misunderstandings or unjustified concerns, which may have affected some federations’ views on the matter, the following are to be cited:

First, an undue focus of many positions remained exclusively on the “made in the EU” origin mark idea, even though the working paper covered many other aspects than the “made in the

EU” option itself. An EC origin marking scheme involves more than the creation of a “made in the EU” origin mark: it basically implies the development and application for imported goods and/or domestic production of a regulation on the issue at Community level. The “made in the EU” claim represents only a part of the scheme. Other elements of the scheme –notably the marking of imports, either in conjunction with domestic marking or as an alternative (option 2) –received far less attention.

Secondly, a common major misunderstanding related to voluntary national origin marks and the wrong assumption that the initiative promotes the elimination of these marks. This was fuelled by inaccurate and sensationalist press reporting in early January alleging that the Commission sought to abolish “Made in Germany”, “Product of France” “Quality British product” and the like. The fact is that national origin marks were not specially addressed in the document. The assumption was that any “Made in the EU” would co-exist alongside existing voluntary national marks. Marks of origin were sometimes also confused with other labelling issues more related to IP aspects, such as geographical indications, which were also not referred to at all in the working document.

Third, there was a great deal of misplaced concern and confusion regarding the WTO – compatibility or the discriminatory character of origin marks (“even under option 3 an origin marking scheme would imply discrimination by consumers”). One aim of origin marking is to provide the consumers with the information needed to make the choice between products originating in different countries. This necessarily implies a type of discrimination by consumers inseparable from the origin marking itself: this is the sense of the measure. However this discrimination is not at all legally inconsistent. It is the discriminatory *application* of origin marking requirements to products originating in different third countries that would be inconsistent with the MFN clause under Art. IX GATT. (GATT, Article IX, does not stipulate national treatment but only non-discriminatory treatment between third countries’ goods). The fact that many other countries require origin marking for imports only, and that this has never been queried or challenged, provides a further indication of GATT-consistency, albeit not in itself determinative.

Fourthly, some comments suggested – wrongly - protectionist motivations and other vested hidden interests behind the Commission’s initiative and this may have provoked a more defensive stance against options for change. On this point, the working document was not proposing any scheme but only promoting a debate on the issue, a point which the Commission services took pains to explain during the consultations.

Fifthly, concerns were expressed on the difficulties of defining the country of origin for origin marking purposes. This concern seemed however to ignore the fact that, currently, national regulations on consumers’ protection already define some criteria to determine the country of origin and verify the accuracy of information provided on products placed on the EC market. The EC itself applies non-preferential origin rules to determine the origin of goods being placed on the EC market, and any marking scheme would simply be a manifestation of these rules. The same arguments could be applied in relation to concerns on controls and costs. Considering that a great deal of products already inside the EC market carry marks of origin, while most goods imported are accompanied by a declaration of origin on the custom’s declaration, the accuracy of these indications is, already, assumed to be controlled.

Sixth, another characteristic aspect of the arguments submitted was the expression of contradictory positions, not always sufficiently founded, as well as some incoherence. There

was in particular some disagreement as to what was the real interest of consumers in having information on the country of origin of products. While some commentators argued that national origin marks and geographical indications should be promoted, being the instruments providing the precise information that consumers wish to know (as against a “made in the EU” claim which was too vague), the argument was also advanced (sometimes from the same sources) that brands, quality and design were the real relevant information sought by consumers, and that geographical information is irrelevant. The Commission was also presented with conflicting evidence on consumers’ interest from the European level consumer federations and some national federations on the one hand; and other national federations and a direct poll of consumers in four countries (UK, France, Italy, Germany) on the other. The rather vigorous opposition to compulsory marking of imports from some business federations representing importing interests also suggests an awareness that, at least for some sectors, indications of origin could have an impact on consumers’ decisions.

There were also opposing views expressed regarding the efficacy of any origin marking scheme in the fight against counterfeiting, origin fraud and consumer deception. While no commentators disputed that these problems were a serious threat to EC industries’ interests, there was no consensus that origin marking would be a decisive tool to combat them. The most that could be said was that origin marking would constitute an additional element to include in controls by customs and post marketing surveillance authorities, and the forging/removal of marks an additional cost for dishonest traders. On this point the Commission questions how significant a role compulsory origin marking could play in combating counterfeiting – there are more effective regulatory and enforcement instruments for this. The Commission however does accept the argument that, in some sectors where misleading origin claims are prevalent, a requirement to mark the origin of imported goods would provide an additional means for control authorities to detect inconsistencies between a product’s real and declared origin. This does certainly appear to be the case in those countries where some form of marking of imports is required. Such controls would necessitate physical examination of goods and could involve additional costs for business during clearance and for customs administrations as a result of the resources required to carry out these new control duties.

There was similar disagreement regarding the costs of applying origin marks. Several federations argued that the cost would be zero or negligible – noting that in any case marking was already required for many export markets and was thus accounted for – and in any case outweighed by the benefits. Other industry groups held that for their industries at least, there would be costs involved and no perceivable benefits.

Seventh, some comparisons that were made between a “made in the EU” origin marking and “made in Asia” or “made in NAFTA” could also be questioned. In the view of the Commission such claims implied a confusion between the customs union and the internal market of the EC, and other different types of regional integration based on free trade areas or even looser geographical zones.

Some federations expressed support for compulsory origin marking on condition that regional partners – in particular Turkey – would be exempted from any requirement to mark imports. Our EEA partners also raised similar concerns as to whether marking of imports would be consistent with the EEA Agreement. On this issue the Commission Services will ascertain whether GATT Art XXIV, would be applicable in these circumstances. If Article XXIV provisions do indeed apply, the same reasoning might also apply, thus, to Mediterranean

partners once the level of integration with the EC in the context of the Euromed agreements goes beyond that of a simple free trade area.

Finally, there were different perceptions regarding the current legal situation in the EC and the existence of, or the need to fill, a “legal vacuum”. Some federations argued that the absence of a EC-wide regulation laying down requirements to be followed in case origin marking were applied in one or other Member State created a situation whereby different Member States had differing requirements and where enforcement levels differed between Member States. It was argued that a common regulation applicable to all Member States (and thus followed by all producers equally) would ensure consistent levels of enforcement e.g. by Member State X of a national mark used and valued in Member State Y. Other federations argued however that the absence of a Community regime – either voluntary or compulsory - had not led to any discernible problem: “if it isn’t broke, don’t fix it”.

4. CONCLUSIONS AND NEXT STEPS

The first conclusion that can be drawn from the consultations is that there does not seem to be sufficient support for the introduction of a compulsory marking scheme for EU products. The Commission therefore does not consider it worthwhile to pursue this possibility further.

A second conclusion that became clear during the consultation process is that different manufacturing sectors have widely different views about the value of origin marking. Several manufacturing sectors saw no added value in origin marking, and so indicated their preference to maintain the status quo, while others expressed an equally strong interest in the implementation of an origin marking scheme at Community level. The latter sectors – such as textiles, clothing, leather goods, furniture, footwear, ceramics – argued that they tended to be producers of consumer goods where, according to them, consumer interest in the origin of the product is strong, origin fraud and deception are growing problems threatening the economic wellbeing of the sectors, and where real marketing value or the stimulation of European investment in the sector is associated with origin marking.

While these sectors generally supported the introduction of a compulsory marking scheme for both imports and domestic products (option 3 in the earlier Commission document), they nonetheless recognised the opposition of some other sectors to compulsory marking for domestic goods. For this reason most of the interested sectors stated that Option 2 in the Commission consultation paper - i.e. compulsory marking for imports, and a voluntary scheme only for domestic products - would be a reasonable compromise. In a similar vein, several of the sectors expressing difficulties with one or other of the options also indicated that they would have less difficulty with a marking scheme for imports if it were only applied to those sectors exhibiting an interest or a particular need. Indeed, with one or two exceptions, the federations and associations who expressed their views showed a considerable degree of understanding for the different interests of other associations.

Against this background, two approaches merit further consideration as regards the compulsory marking of imported goods. One would be to apply such a requirement to all imported consumer goods. It may also be appropriate to include within the scope of origin marking certain semi finished goods or materials where origin marking would be desirable from the point of view of consumer information or the avoidance of deceptive origin claims. Exceptions to coverage would need to be identified, but a future marking scheme if pursued should certainly exclude from its purview agricultural products, foodstuffs and other products

already subject to origin marking or labelling for health, safety or other regulatory purposes, it being clear from the consultations that there was little interest or expectation that these sectors would be covered by any scheme. A system of across the board marking of imported consumer goods subject to exceptions would be similar to the system applied for many years in the USA.

The second option would be to apply an origin marking requirement only for those sectors and products for which interest has been expressed at the European level: this would resemble more the approach adopted by countries like Canada or Japan.

Between these two options, the selective, sectoral approach may be more proportionate to the concerns and priorities expressed by EC manufacturers. It would relate origin marking specifically to those products and sectors for which consumer information, the avoidance of deceptive origin claims, and the promotion of European manufacturing has been identified as being particularly important, while not applying to those products and sectors for which origin marking is arguably less relevant or at least has not been requested by industry federations.

The Commission therefore considers that it would be useful to pursue more work on this second option. It would be appropriate therefore to consult further interested European sectors on the feasibility and scope of a scheme providing for obligatory origin marking of imported goods on a sectoral basis, according to our current non preferential origin rules. In addition to determining possible sectoral and product scope more precisely, issues such as the nature, placing and language of any marking requirements, an economic impact assessment for the sectors and products in question, as well as an estimate of the budgetary consequences, if any, of such a scheme, should also be explored in this next phase of work. The list of products that could be subject to a third country origin marking could be based on the definitions set out in the EC's Combined Nomenclature. Any such proposal should also look at the possibility of adding or removing sectors or products over time. In view of the fact that certain sectors have expressed interest in a broader review of compulsory consumer labelling information applicable to their sectors, the Commission would be open at the same time to study these aspects (recognising of course, that this issue goes to some extent beyond the scope of the current exercise regarding origin marking).

As regards the voluntary marking of domestic goods – which was supported by most of the same sectors – the Commission's preliminary conclusion is that such origin marking should remain purely voluntary, on the basis that if producers find commercial value in marking goods as being European in origin, they will do so of their own volition. It may however improve the functioning of the internal market, if recourse to such voluntary marking were based on a common application of the relevant Community legislation. This means in practice that EU origin marking would only be used if the product in question actually is produced in the EU according to existing non-preferential origin rules. Such a regime would have the effect of ensuring that, should producers choose to mark goods as "Made in the EU" or "EU product", they actually would possess EU origin. It seems self-evident to the Commission that at a Community-wide level there should be legislation to prevent the inaccurate or dishonest use of an EC or EU origin claim. This idea therefore should be studied further.

The Commission invites Member States' comments on the contents of this document and on the next steps that the Commission intends to take.

ANNEXES

Annex 1

Organisation of the consultation process

1. Industry and trade unions

13 January 2004	Contacting the main European Industry Federations and inviting them to participate in the consultation process.
29 January 2004	Meeting co-organised by ENTR and TRADE with representatives of main European industry federations.
February 2004	Bilateral meeting organised by TRADE with representatives of European industry federations presenting specific positions on the initiative.
18 February 2004	Electrical and Electronic Engineering dialogue meeting.
26 March 2004	Textile High Level Group Meeting.
31 March 2004	Contacting the European Trade Unions federations.
26 April 2004	Textile High Level Group Meeting.

2. Consumers' Associations and NGOs

13 January	Contacting BEUC and inviting it to the participation on the consultation process.
4 February	Contacting (SANCO) Members and Observers of the European Consumer Consultative Group and inviting them to participate in the consultation process.
25 February	Circulation of the consultation document to NGOs participating in the Commission's civil society network.
18 March	Meeting with the European Consumer Consultative Group.

3. Associated third countries

18 February 2004	EFTA countries: Meeting with Subcommittee I on the free movement of goods.
31 March 2004	9 th Meeting on trade policy regarding third countries EU-Turkey.

4. Other Institutions

13 January	Contacting the European Parliament and inviting its participation in the consultation process.
13 January	Contacting the ECOSOC and inviting its participation in the consultation process.

Annex 2

Written positions by participants

1. Industry and trade unions

1.1. List of participants

1. ACFCI - DIHK (Assemblée de Chambres françaises de Commerce et d'Industrie) (Deutscher Industrie un Handelskammertag) a.czmal@acfc.cci.fr
2. AIM (Association des Industries de Marque) brand@aim.be AIM's membership groups 1800 companies in 20 countries.
3. BAK (Austrian Chamber Federal of Labour) office@akeu.at BAK is the statutory representative of some 3 millions employees.
4. Cámaras de Comercio. (Spanish Chamber of Commerce). csc@cscamaras.es The 85 Spanish Chambers of Commerce Representative.
5. CEC (Confédération Européenne de la Chaussure) jtanghe@vidac.be
6. Cerame-Unie (Bureau de Liason des Industries Ceramiques Européennes) sec@cerameunie.net
7. CEPS (Confédération Européenne des Producteurs de Spiritueux) cepspk@skynet.net
8. CIAA (Confederation of the food and drink industry) n.lecocq@ciaa.be
9. CONFINDUSTRIA m.felisati@confindustria.it
10. CONFCOMERCIO confcomtur@skypro.be
11. COTANCE cotance.sec@euroleather.com
12. EECA-ESIA (European Semiconductor Industry Association) secretariat.gen@eeca.be Represent European based manufacturers of semiconductors. It support 85.000 jobs in a market valued around 29 bn. Euros.
13. ETUF/TCL (European Trade Union Federation: textile, clothing and leather) fse.the@skynet.be ETUF includes 1 million affiliates in TCL sectors and 2.350.000 workers in the EU.
14. EUCOMED eucomed@eucomed.be EUCOMED comprises ca. 50 corporate members and 25 associations. It represents 3000 companies.

15. EURATEX william.lakin@euratex.org
16. EUROCOMMERCE dekoster@eurocommerce.be It stands for 4.7 million companies (retailers, wholesalers, exporters and importers).
17. EUROCOTON ' michele.anselme@eurocoton.org '
18. FESI (Federation of European Sporting Goods Industries) derulle@fesi-sport.org
19. FTA (Foreign Trade Association) maria.linder@fta-eu.org
20. Markenverband info@markenverband.de
21. Orgalime (European Mechanical, Electrical, Electronic and Metal working Industries) secretariat@orgalime.org Orgalime includes 34 national trade federations representing 130.000 companies in 23 countries, employs some 7.3 million people and account for 1200 billion Euros and one third of the industrial exports.
22. TIE (Toy Industries of Europe) tie@tietoy.org TIE represents over 90% of the European toy industry and includes the national trade associations of Member States as well as major toy companies from across Europe.
23. UEA (European Furniture Manufacturers Federation). secretariat@UEA.be UEA represents the furniture industry at European level. The turnover of this industry amounted to 78 billion Euros in 2003 and 9 million Euros in EU exports. 1 million employees work in the industry.
24. UECEBV (European livestock and meat trading union)
25. UNICE main@unice.be
26. VDM (Verband der Deutschen Mobelindustrie) info@hdh-av.de
27. VDMA (Verband Deutscher Maschinen und Anlagenbau) Holger.kunze@mcm.be The German engineering industry represents 880.000 employees a production volume of 129 billion Euros and an export share of 70%).

1. 2. Positions

INDUSTRY	OPTION 1 Voluntary O.M. for imported goods and domestic production	OPTION 2 Voluntary OM for domestic production and compulsory for imported goods	OPTION 3 Compulsory origin marking for both imported and domestic production	OPTION 4 Status quo
ACFCI-DHK				X

AIM				X
BAK	X Acceptable a voluntary O.M. "Made in EU". No comments on imported goods			
Cámaras de Comercio		X		
CEC	French position	X		
Cerame-Unie			X	
CEPS				X
CIAA	Acceptable			X
CONFINDUSTRIA		X Compulsory for imported goods. Status quo for domestic production		
CONFCOMMERCIO	X	X	X	
COTANCE		Acceptable	X	
EECA-ESIA	First step is the harmonisation of non-pref RO. O.M. for domestic products must be voluntary			X
ETUF			X	
EUCOMED				Sceptical
EURATEX		X		X
EUROCOMMERCE				X
EUROCOTON		Acceptable	X	
FESI				X
FTA				X
MARKENVERBAND				X
ORGALIME		Italian Member	Czech Member	X
TIE				X
UEA			X	

UNICE	Acceptable for some sectors			X
UECBV			X	
VDM		X		
VDMA				X

2. Consumers' Associations and Consumers' views

2.1 List of Participants

1. ALLDC (Association Léo Lagrange pour la Défense des Consommateurs) (FR)
2. CNCU (Consiglio nazionale dei consumatori e degli utenti) (IT)
3. Consumers' Association (UK)
4. KEPKA (Consumer Protection Center) (GR)
5. VZBV (Federation of German Consumers Organisation) (D)

2.2. Positions

CONSUMERS ASSOCIATIONS	OPTION 1	OPTION 2	OPTION 3	OPTION 4
ALLDC			X	
CNCU		X No comments on compulsory/obligatory O.M. for domestic production		
Consumers' Association				X
KEPKA			X	
VZBV				X

SURVEY CARRIED OUT BY EURISKO (Italian research agency)	How interested would you be in knowing the country of origin of products imported from non-European Union countries?
FRANCE	87%
GERMANY	83%
ITALY	72%

UNITED KINGDOM	81%
----------------	-----

3. Member States and Associated Countries

COUNTRIES	OPTION 1	OPTION 2	OPTION 3	STATUS QUO
ITALY		X		
NETHERLANDS				X
GERMANY				X
UNITED KINGDOM				X
EFTA	Acceptable if fully respect the objectives of the EEA			
TURKEY	Any system must not cause the alienation of Turkish products			

Annex 3

Summary of positions

1. Industry and trade unions

1. ACFCI-DIHK

The position focuses exclusively on a “made in the EU” origin marking and it assumes that a “made in the EU” label would imply the elimination of national marks. On this basis, it is not considered as a necessary issue or an advantage and national origin marks and geographical indications are defended. In their view, “a made in the EU” label could be regarded as a NTB by third countries and it would not be recognised by them. Also it would imply control costs and barriers to the European industries and would not be a useful instrument against counterfeiting because origin marks can also be faked. Up till now, the status quo has not presented any problem.

A reflection on the implementation of a “made in the EU” origin marking is, in any case, welcome.

2. AIM

Branding is much more important than the origin of a product in relation to consumer information on quality. Problems of counterfeiting can be resolved through a better implementation of customs legislation, of the EC Directive on IP, of consumer protection regulations and of unfair commercial practices provisions. The initiative offers no advantages and can imply costs.

A sectoral approach could however be appropriate, but not based on protectionism.

3. BAK

BAK’s position is based on the assumption than the initiative tries to implement a binding “made in the EU” label to replace national or regional marks. This possibility is rejected considering that in a consumer’s choice, price and quality are not the only decisive elements, but also environmental reasons, production approaches respecting ecological means, regional infrastructures, etc., shown through national or regional labels.

A voluntary “made in the EU” label is accepted if respecting national or regional origin marks.

4. CAMARAS DE COMERCIO

Some problems are considered concerning a compulsory “made in the EU” label, such as the real country of origin of a product taken into account delocalisation in the production process, the competent authority to control the accuracy of the label, the lack of consensus inside the industry and Member States, possible contradictions with existing Community legislation in some sectors as beverage and food or with the label “CE”, the possibilities of counterfeiting also the “made in the EU” label and the limited information provided to consumers through a

wide concept as “EU”.

Option 2 is preferred. In this way, sectors where this type of information is irrelevant would not be obliged to assume the cost of using it and national marks could coexist. Sectors which would voluntarily decide to apply the origin marking could receive some support. A competent body to control counterfeited origin claims and to defend the Community interests should be created.

5. CEC

Option 2 is preferred:

“Made in the EU” has not added value and should be abandoned in favour of national origin marks. All imported goods should be requested to have an origin mark accompanied by a certificate of origin to control the accuracy of the information. Every imported product with an origin mark related to a Member State should be immediately rejected. Consumer information is the main aim; retailer’s information is only complementary. French producers prefer a voluntary approach also for imported goods because of delocalisation of their production. However, Italian producers are convinced that the manufacturing process will return to the EC through the implementation of this initiative.

“Chaussures de France” has sent a particular position requesting more time to do a complete and calm debate. They support a voluntary approach: consumers are more attracted by brands, quality controls and creativity than by the geographical origin. Consistency, in any case, with national and Community regulations on the issue must be assured by controls through national administrations developed with the same level of efficiency.

6. CERAME-UNIE

Origin marking is a vital element of any trade or industrial policy.

Option 3 is preferred because it allows consumers to make a choice according to the country of origin and the ceramic industry has experienced that consumers wish to be informed on the origin. A “made in the EU” label could easily be added to existing national origin marks with limited cost. It would be a useful instrument against counterfeiting and can develop into an important marketing tool considering that EU products have a high quality reputation.

Option 2 could be accepted if necessary for reaching a common position.

7. CEPS

In the spirit drink sectors the EC has already devoted considerable efforts to develop geographical indications. Some of these indications became protected geographical indications because these countries or regions have developed a reputation and are considered as marks of quality. Compulsory indications of the country of origin are only requested when, in their absence, consumer confusion might result.

A “made in the EU” origin marking would not provide clear indication on the origin of a product and could be redundant with existing regulations. In terms of WTO, it could overlap and pollute current negotiations under TRIPs, even if not connected. It could also add costs in terms of labelling. The status quo, thus, is preferred.

8. CIAA

Considering the large number of labelling obligations already applying to food products (compulsory indications of the place of origin of the product when its absence might confuse consumers, traceability requirements for some sectors, protected geographical indications,...) and the importance of brands as the key marketing tool, an EU origin marking scheme does not appear to provide additional benefits. On the contrary, additional information would pose problems of space and costs and also distract the attention of consumers. It is not clear either that a system of origin created for customs purposes could provide appropriate information to consumers. This assessment is valid for both imported and domestic production.

To maintain the status quo is preferred. Nevertheless, if such a scheme is to be finally implemented throughout the different sectors, it should be only under option 1.

9. CONFINDUSTRIA

Option 3 is preferred because is not discriminatory, eliminates the costs related to producing, stocking and exporting goods separately. It strengthens the perception of the internal market and equalizes global competitiveness of European Industry towards competitors producing at lower costs, through social and environmental dumping, etc.

Option 2 could be accepted. This option would imply no additional compulsory costs for European industries. It would enhance market transparency and consumer information, would contribute to limit counterfeiting and unfair competition and would attract domestic and foreign investors to Europe. No risks to be attacked with accusations of protectionism considering the practice of other WTO Members. Art. XXIV GATT would enable the exemption of the obligation of marking to goods originating in countries with which the EC maintains preferential agreements.

Option 2 bis (compulsory origin marking for imported goods and status quo for domestic production) could be also negotiated.

10. CONFCOMMERCIO

Option 2 is preferred: The “made in the EU” would satisfy the necessity of accurate information to consumers and national origin marks would answer the need for protection, acting as quality marks. Because they would be voluntary, there would not be new costs for producers in the EC.

Compulsory origin marking for imported goods would eliminate the current disadvantages of the EU producers when exporting to countries requiring origin marking. Non preferential rules of origin should apply to identify the country of origin.

11. COTANCE

Harmonisation of marking and labelling in the leather sector is a traditional request. Origin marking could imply a mark of distinction but would be convenient to identify the origin of the component materials (traceability).

12. EECA-ESIA

An obligatory marking scheme could imply an additional burden. It would be more effective to enhance company brands.

The harmonisation of non-preferential rules of origin should be completed before any origin marking scheme is considered. Once harmonised, it could be interesting to apply a compulsory origin marking for imported goods to create a more equal playing field in relation to main EC trade partners. Marking for domestic production should be voluntary.

13. ETUF

ETUF has a strong interest in the development of an origin marking regulation as manifested already in 2002. The modernisation of EU textile and clothing enterprises has been achieved by focusing on high added value products and services and strengthening its non-wage costs competitive advantages, including design, quality and image. There is legal vacuum in terms of origin marking, discriminating European consumers against. A regulation on this issue will answer increasing concerns raised by consumers and would allow them to evaluate the price-quality ratio and social and environmental standards. Origin marking schemes are used by third countries with no apparent high costs. In addition, more than half of textile goods produced in the EC are already labelled and the origin of the rest must be known. Finally an origin marking scheme would make it possible to fight against fraud and counterfeiting.

Option 3 is favoured.

14. EUCOMED

Eucomed finds the question of the creation of an EU origin marking scheme most interesting but questions the need for the introduction of such a scheme. It prefers the status quo. If such scheme is to be introduced, it should be only under a voluntary approach.

Concerns: Differences between the concept of country of origin for customs purposes and labelling, problems of discrimination between domestic and imported goods, compatibility with the "EC" label, credibility of a "made in the EC" origin making in contrast with national marks and acceptance of equivalent claims as "made in Asia".

15. EURATEX

Option 2 is preferred, national origin marks must be maintained. Turkey and EEA countries should be excluded from compulsory origin marking requirements. It would be convenient to exclude also Pan-Euromed countries.

16. EUROCOMMERCE

The initiative is not based on any evidence of need for business or consumers, thus the status quo is preferred. A European origin marking would only lead to discrimination and would enhance the danger of abuse.

There is a need for clarification on which products are covered by the initiative (i.e. agri-food

products have already a regulation) and which rules are to define the country of origin. European traders will have to carry the burden of these uncertainties. In relation to consumers “a made in the EU” claim is too much vague. Besides, consumers trust in brand names. The concept of geographical origin is anachronistic: companies invest in quality control, brand names based on images and characteristics divorced from geographical indications. A compulsory origin marking for imported goods would represent a NBT and a form of protectionism. The principle of subsidiarity, moderation and decentralisation are also argued.

17. EUROCOTON

Consumers attach more and more importance to the information on products. This information embraces the country of origin and also traceability so far as the taking into account of respect of the environment, social rights, etc. As there is a growing number of initiatives in the area a harmonisation at European level would be suitable. European producers have to comply with the origin marking requirements of the main EC trade partners, thus it is not clear why to reject the marking requirements for the Community market. For European producers a “made in the EU” would be a “plus” vis-à-vis the consumers.

Option 3 is preferred if permitting a reference to national claims. Option 2 would be acceptable.

18. FESI

FESI recommends maintaining the status quo. From consumers perspective, a “made in the EU” origin marking will not replace consumers’ trust in branded products and will not be accepted, unlike current national origin marks: there is no knowledge base of the EU as a whole. The initiative may result in disguised restrictions to combat the expected increase in imports following the ATC phase out. In relation with counterfeiting, improvement of IP, criminal and consumer legislation will be more effective. Possible costs of enforcement for industries and administrations.

19. FTA

FTA is for the status quo: such a scheme would not bring any added value, would not improve consumer information, would not be useful in the fight against counterfeiting (many legitimate goods are produced in the same country as counterfeit goods) and would add a significant administrative burden for all parties. A “made in the EU” origin mark would not be very informative for consumers because if the final product is “created” in the EU, even by using foreign components, non-preferential rules of origin would allow to carry the label. The promotion of the single market is with difficulty perceived in the EU 25 and, internationally, would be perceived much more as a protectionism device incompatible with the MFN principle. Even option 3 would imply a discriminatory treatment against imported goods. Administrative burden and extra cost are also argued.

20. MARKENVERBAND

Markenverband assumes that the initiative tries only to harmonise national origin marks and develop a “made in the EU” origin marking. Any scheme – and even more if compulsory- is

considered as a restrictive instrument implying costs. A “made in the EU” claims provides insufficient information. On the contrary, national origin marks are relevant instruments of decision for consumers. A “made in the EU” would not improve the homogeneity of the internal market and would imply only double costs when exporting to third countries, considering that these third countries would continue to request the national origin marks. It would not contribute to the fight against counterfeiting given that a “made in the EU” could be also faked. Concerning the compulsory origin marking for imports, it could be an instrument to guide consumer’s choice, implying a type of discrimination. The definition of country of origin is not clear: when a product could be legally marked with a “made in the EU” claim, a national claim or even a third country mark if it incorporates components originating in different countries.

21. ORGALIME

Orgalime assumes that the consultation process leads to a harmonisation of national legislations of EU Member States, the introduction of an obligatory marking scheme for imported goods and the introduction of a “made in the EU” mark. On this basis, it prefers the status quo. Current situation is satisfactory and any changes would only create additional costs, tensions with the EU’s trade partners and no significant effects with regard to IP.

22. TIE

TIE does not believe that any of possible advantages could outweigh the costs and potential disadvantages as administrative burden. They do not support the idea that such a scheme could encourage certain investments of European companies. If business wants to use this type of marks it can already do it on a voluntary basis. Status quo is preferred.

23. UEA

UEA favours option 2: It should allow customers to distinguish between EU and imported goods and would provide a higher transparency in the internal market. It would also limit counterfeiting and unfair competition. Concerns on protectionism and WTO compatibility are not relevant considering that the major WTO members have set up such a system. In this sense, such a scheme should ensure a level-playing field for all participants in international trade. Besides, in this mixed option, there are only costs for the exporters to the EC.

A sector-based mark could be also implemented for the furniture industry, even going further and creating a specific label containing additional information including the materials used, essential characteristics, etc.

24. UECBV

UECBV explains that since 1997 there is a system of compulsory origin marking for beef. A report on the implementation of such a scheme and a potential extension of the system is currently prepared by DG AGRI. In this context UECBV requests for the possibility of introducing also a “made in the EU” origin mark under the mentioned scheme, considering that the current regulation permits only the mention of the name of a Member State or a third country.

25. UNICE

The status quo is preferred: Labelling is an important issue associated with the marketing and production strategies and companies have developed own origin labelling schemes. An EU origin marking scheme could limit the freedom of companies to communicate the country of origin of their products. Mandatory origin marking for imports could undermine trade facilitation, raise legal issues as regards WTO commitments and create additional burdens and costs. It would be preferable to increase information concerning currently existing labels.

UNICE recognise special sectors' concerns and accepts the examination of developing an origin marking scheme if there is a specific written and justified request from a European sectoral federation, the scheme does not impose excessive burdens on producers and importers, it is WTO compatible, it is not used for protectionist purposes and have not negative effects on any other European sectoral industry.

26.VDM

The development of a "made in the EU" origin marking would only imply costs and disadvantages for producers comparing with the current situation. In the internal market and in third countries the mark "made in Germany" represents quality and design. The replacement of national claims by a "made in the EU" label, even the coexistence of both labels, could have only a negative impact.

Option 2 is preferred because it would provide more information and the image of the EU as an economic area with uniform minimum standards would be enhanced.

27. VDMA

VDMA favours the status quo. The position defends the maintaining of the national origin marking "made in German" as a sign of high quality over the world assuming that option 3 would imply its elimination. Concerning option 2, the obligation for imported goods to be marked would result in extra expenditure for European companies. Counterfeiters will not be refrained despite any mandatory marking requirements. The complex production process make it next to impossible to determine the country of origin and German companies using currently the "made in German" may henceforth be deprived of this option because some areas of the production process are executed outside the EC. It is necessary to assess the impact of mandatory origin marking for imported goods on the relationships with trade partners, especially in relation to US. VDMA would be also against option 1, considering that it implies a harmonisation of origin marking rules and the "made in German" is used flexibly and without specific legal framework.

2. Consumers' Associations

1. ASSOCIATION LÉO LAGRANGE POUR LA DÉFENSE DES CONSOMMATEURS

The Association, interested in more information for consumers and transparency, favours option 3 and requests an European authority with control powers, more information to make it

clear the difference between origin marking and other labels as “CE” and the elimination of national origin marks.

2. THE ITALIAN REPRESENTATION IN THE EECG

They defend an origin marking scheme (option 2) if national origin marks are kept. For agricultural products they request also the introduction of traceability and the respect of other labelling regulations already existing on the issue. Concerning non agricultural-food goods, a “made in the EU” and national origin marks must coexist. In relation to third countries, origin marking should be mandatory to avoid misleading information to consumers.

3. CONSUMER’S ASSOCIATION

There is not a visible revival in interest that justifies the Commission’s initiative in this issue. It appears that the document responds only to vested interest in the textile sector and some unnamed others seeking trade restrictions. About consumers information, it is not clear that existing national schemes do not deliver enough information and why industry has not seen a “made in the EU” label voluntary. Such a label would only dilute national brands. The EU internal market is not a country and has not all the attributes of a country in the consumers’ mind. If the visibility of the internal market is a real argument, the US would drop its schemes of origin for a “made in NAFTA” claim. A compulsory EU label would not be useful in the fight against counterfeiting. There are other alternative solutions as corrective statements to be considered.

4. KEPKA

Compulsory origin marking must be implemented at least on domestic products, however, an origin marking for imported goods would be useful too. Industry will gain more from the consumer trust.

5. VZBV

German consumers trust in the “made in Germany” mark and it is relevant to consumers’ choice. Information through national origin marks is much more concrete than through a “made in the EU” label. The importance of the country of origin of goods for the consumers’ choice is defended arguing national skills, cultural features, traditions, etc. National origin claims are not contradictory with the internal market. The internal market is based on cross border and competition and national origin marks improve competition through information. Thus, they are against the replacement of national origin marks by a “made in the EU” origin marking and even a coexistence of both labels. The status quo is preferred.

6. Survey by Eurisko on the opinion of consumers in Italy, France, Germany and the United Kingdom

According to the results of the survey, consumers are interested in the country of origin of products:

- The statement “*it provides more information and gives the opportunity to make conscious choices*” was agreed by 78% in Italy, 85% in France, 86% in Germany, 84%

in UK.

- The statement “*it helps to find safe products*”, was agreed by 70% in Italy, 79% in France, 66% in Germany, 78% in UK.
- The statement “*it helps to detect products imported from countries that enforce no laws against child labour and for environmental protection*” was agreed by 70% in Italy, 78% in France, 80% in Germany, 79% in UK.
- Disagreed with the statement “*it does not provide any special benefit*” 47% in Italy, 73% in France, 71% in Germany, 61% in UK.
- The question “*are you interested in knowing the country of origin of products imported from non-European Union countries ?*” was given a positive answer by 72% in Italy, 87% in France, 83% Germany, 81% in UK.

3. Member States and Associated countries

1. GERMANY

The German position focuses only on the “made in the EU” origin marking and rejects both a voluntary or compulsory scheme for this claim. The introduction of a new “made in the EU” label would entail substantial disadvantages not balanced by visible advantages. Considering consumers’ views, they are very interested in the origin of goods, but a “made in the EU” origin marking is much less meaningful than information provided by national claims. Regarding business associations, they consider that the origin plays a totally subordinate role in consumers’ purchasing decisions. The new marking can be the object of falsification and fraud and would imply costs. It would render the use of national markings impermissible

2. ITALY

Italy proposes the adoption of an EU compulsory origin marking for imported and/or EC manufactured goods. It would contribute to distinguish European products from imported ones. Bureaucratic compliance is not expected to bring additional costs for European companies. With harmonised rules on the issue, efficiency in customs controls would be enhanced. It would contribute to eliminate counterfeiting. An increase awareness of consumers, resulting in higher attractiveness of European products, would attract investors in Europe, with particular benefits for SME’s operating in sectors exposed to global competition.

Legal arguments on option 2 are provided, as well as a deep analysis on the legislation on origin marking of some third countries and a survey on consumer’s behaviours on the issue.

3. THE NETHERLANDS

The added value of the introduction of an EC origin marking scheme has never been proven. Consumers are not interested in the origin of products; brand plays a much more significant role. Mandatory origin marking would only cause administrative burden, additional costs and would be almost impossible to implement by small and medium-sized undertakings. There is no institution involved in verification of origin marking and investigations on the issue are complicated and exceed the benefits. In addition, this type of marking would hinder free trade.

4. THE UNITED KINGDOM

The UK view is that a “made in the EU” origin marking is neither necessary nor advantageous and that the status quo should be kept. EU labelling would not increase IPR’s protection; nor reinforce international recognition of the EU’s customs union as a single market. It would be contrary to the Community trade facilitation agenda. A “made in the EU” origin marking lacks any credibility and is potentially misleading: consumers want any information to be as specific as possible. It would represent a burden especially on small business. It is already possible to label products with a “made in the EU” claim if convenient, thus introducing a community regulation on the issue would only imply to lose flexibility.

5. EFTA COUNTRIES

EFTA countries fear that the introduction of an origin marking scheme could constitute a new barrier to trade between EEA partners. In any case, any scheme should be compatible with the principles of the EEA. Considering the existence of national origin marking schemes and the principle of subsidiarity EFTA countries do not see the need for a new EC regulation on the issue.

In addition, such a scheme could be considered as a measure restricting access to the internal market in the new WTO Round. On the contrary, they support new initiatives in strengthening the “CE” mark as the passport for free circulation of industrial goods.

6. TURKEY

An EU origin marking scheme might strengthen the concept of European origin as a mark of distinction. They fear, however, that it could cause the alienation of Turkish products in the EU market and add extra costs to the Turkish exporters.