# Imports: indication of the country of origin of certain products

2005/0254(COD) - 16/12/2005 - Legislative proposal

PURPOSE: to lay down rules on the indication of the country of origin of certain products imported into the Community from third countries.

PROPOSED ACT: Council Regulation.

BACKGROUND: in December 2003, the Commission submitted to the Council a working document on a possible EU origin marking scheme, following a renewed interest shown on the subject by some Member States and some sectors. The Member States and the sectors in question were expressing a growing concern over the mounting incidence of misleading and/or fraudulent origin marks being carried by imported products.

In the first half of 2004, the Commission launched a consultation process on this question involving the main stakeholders - industry, trade unions, consumers and other institutions - the results of which were discussed in the Council by a specific committee.

Based on the results of that consultation process, the draft Regulation proposes the introduction of a compulsory origin marking scheme covering a number of sectors which see benefit in the initiative and applicable to imported goods only.

At present, the European Community has no legislation on the use of origin marking (“made in”) for industrial products. Directive 2005/29/EC aiming to harmonise in-market control of unfair commercial practices also addresses instances of a misleading use of origin indications. However, this directive does not define the meaning of “made in”; nor does it enable controls by customs authorities. Rules on the voluntary use of origin marks which exist in some Member States also differ. The current situation puts the EC at a disadvantage vis-à-vis its trading partners (e.g. Canada, China, Japan and the US) who require origin marking for imports. It deprives EC producers of origin-sensitive consumer goods to realise benefits associated with producing within the European Community, and an opportunity is missed to more effectively prevent false/or misleading origin claims. This draft regulation aims to address these shortcomings.

LEGAL BASE: Article 133 of the Treaty establishing the European Community.

CONTENT: this proposal seeks to lay down rules and conditions applicable to the indication of origin of goods imported or placed on the Community market.

Its main provisions may be summarised as follows:

**Definition of country of origin:** the regulation opts for a definition of the country of origin based on the EC non-preferential rules of origin, as applied for other customs purposes. The application of the EC non-preferential rules of origin to origin marking issues is consistent with EC’s commitments derived from the WTO Agreement on rules of origin.

**Scope:** this Regulation should apply to imported industrial products, excluding fishery and aquaculture products as defined in Council Regulation (EC) No 104/2000 on the common organisation of the markets in fishery and aquaculture products, and also excluding foodstuff as defined in Regulation (EC) No 178

/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority. Goods that require marking are those listed in the Annex to this draft Regulation, and imported from third countries, except for goods originating in the Territory of the European Communities, Bulgaria, Romania, Turkey, and the Contracting Parties of the EEA Agreement.

Goods in travellers' personal luggage for personal use should be exempted from the application of this draft Regulation within the limits laid down in respect of relief from customs duty.

Goods may also be exempted from origin marking, when for technical or commercial reasons, it appears impossible to mark them.

**Origin marking requirements:** in order to reduce the burden of the new scheme as much as possible, the Regulation limits the requirements and conditions to mark the products to the minimum needed to make sure that the origin mark is easily detected and understood by the consumer, but at the same time not easily replaced or faked. The origin marking shall appear in clearly legible and indelible characters, it shall be visible during normal handling, markedly distinct from other information, and be presented in a way which is not misleading nor likely to create an erroneous impression with regard to the origin of the product. As to the language version, the Regulation gives the option of using the words "made in" or other similar expressions in any official language of the European Community, understood by the ultimate purchaser.

**Possibility to extend the marking system to other sectors by the Commission:** recognising that the specific means of fixing a mark of origin may depend on the type of product, the draft Regulation entitles the Commission to further regulate this aspect. Considering also that other sectors could be interested in joining the origin marking scheme, or that origin marking may prove less relevant for others, the Regulation would also entitle the Commission to include or to suppress sectors.

**Penalties:** the Member States shall lay down the rules on penalties applicable to infringements of the provisions of this regulation. The penalties provided for must be effective, proportionate and dissuasive. Where goods are not in compliance with this Regulation, Member States shall adopt the measures necessary to require the owner of the goods or any other person responsible for them to mark these goods in accordance with this Regulation and at their own expense.

FINANCIAL IMPACT: the proposal has no financial impact on the EU budget.