Counterfeit and pirated goods: measures to prohibit the release for free circulation, export or transit

1993/1024(CNS) - 13/07/1993 - Legislative proposal

Council Regulation (EEC) No 3842/86 laying down measures designed to prohibit the release for free circulation of counterfeit goods, effective since 1 January 1988, introduced an instrument which provides protection at borders against trade mark infringements but is also careful not to impede the freedom of legitimate trade. The proposed regulation sought essentially to: - resolve certain operating difficulties in the existing system by making it easier for the holder of a right to request action from the customs authorities; - extend protection to other intellectual property rights in addition to those presently covered, on the basis of the TRIPS plan (copyright and allied rights) and including designs and models. Modification of the protection instrument was proposed as follows: - application of the instrument to trade mark signs and packaging materials, presented separately, as well as tools and moulds used for the manufacture of a product infringing intellectual property rights; - extension of the ban to the export and transit system; - clarification of the information to be provided in support of the right holder's request; - opportunity for the holder of the right to make his request direct to the customs authorities; - opportunity for the applicant and the importer to inspect goods whose release has been suspended; - opportunity to obtain the name and address of the manufacturer of counterfeit goods; - inclusion in the scope of the Regulation of goods in small consignments and clarification of the terms on which counterfeit goods may be imported where they are intended strictly for personal use.