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# Consumer Product Safety Regulation

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Detailed Appraisal of the  
European Commission's  
Impact Assessment

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## IN-DEPTH ANALYSIS

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**Detailed Appraisal  
by the EP Ex-ante Impact Assessment Unit  
of the European Commission's Impact Assessment**

**Consumer Product Safety Regulation**

Commission proposal for a Regulation of the European Parliament and  
the Council on Consumer Product Safety

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## Executive summary

This paper seeks to provide a detailed analysis from a methodological point of view of part of the European Commission's Impact Assessment (IA) accompanying the proposal for a Consumer Product Safety Regulation (CPSR). It does not attempt to deal with the substance of the proposal and is drafted for information purposes to assist the Internal Market and Consumer Protection (IMCO) Committee in its work. It does not represent an official position of the Parliament.

At the request of the IMCO Committee, submitted on 7 November 2013, the aim of this analysis is to determine whether the IA covered adequately the following elements of the Commission's proposal:

1. Country of origin marking (Article 7 of the CPSR);
2. Obligations for economic operators (Articles 8 to 11 of the CPSR).

This note considers this narrower focus in its wider context, i.e. the IA in its entirety. In particular, it acknowledges that an IA in this area faced a very challenging task, which was to analyse a broad range of controversial subjects in what is by convention a short document.

This note performs the requested 'health check' from two angles. Firstly, it analyses whether the Commission's IA is - with regard to the above subjects only - fit for its overall purpose, which is to aid political decision-making by presenting a comprehensive assessment of the likely impacts of all options. Secondly, and relatedly, it analyses whether the IA meets the standards which the Commission has laid down in its internal Impact Assessment Guidelines, as well as the quality criteria which the Parliament has defined in its resolutions (EP Impact Assessment Handbook, point 13).

The appraisal analyses separately the country of origin marking and the obligations for economic operators, which present two different sets of issues. Section one appraises whether the country of origin marking was identified in the IA as a policy option, and whether and how it should have been analysed. Section two assesses the description and analysis of the obligations for economic operators. The annex compares the way these obligations are presented in the Commission's proposal and in the accompanying IA. A bibliography of sources consulted for this appraisal is provided at the end of the analysis.

A detailed analysis of both the IA and its Annexes leads to the following conclusions. The country of origin marking is not identified in the IA. By its own standards, the Commission should have analysed in depth this option, as it has

significant impacts, is politically important and would introduce a new requirement in EU legislation.

The obligations for economic operators, on the other hand, are partially described. Their impacts are partially analysed, drawing on an extensive consultation of stakeholders, which however drew only a limited response from manufacturers of non-harmonised goods.

Finally, the paper recalls that the Inter-Institutional Common Approach to Impact Assessment foresees that '[i]n duly justified cases, the Commission, on its own initiative or at the invitation of the European Parliament and/or the Council, may decide to complement its original impact assessment', with the proviso that '[i]t must not lead to undue delays in the legislative process, nor be abused as an instrument for opposing undesired legislation or prejudice the legislator's capacity to propose amendments'.

## 1. Country of origin marking

### 1.1. The policy option is not identified in the IA

Once adopted, Article 7 of the Commission's proposal would introduce an obligation to place on most products an indication such as 'Made in EU' or 'Made in [Member State X]', which currently does not exist in EU legislation. This is the wording of the proposal:

#### *Article 7*

##### **Indication of the 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 Code<sup>21</sup> 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.<sup>1</sup>

This policy option, in its actual scope and content, does not feature in the Commission's analysis, either in the IA or in its annexes. The country of origin marking foreseen by Article 7:

- is not among the options which were initially considered and then discarded (IA, p. 27 and Annex 12, pp. 142 to 148);
- is not among the options analysed in depth (IA, pp. 27 to 34).

The closest reference to the country of origin marking is contained in the following option of the IA. It should be noted that this option has substantive differences with Article 7 of the Commission proposal. Moreover, it was discarded by the Commission from its assessment, as it was considered not effective. However, its analysis may be informative. The bold highlight below, added in this appraisal, refers to the sections which show some similarities with Article 7.

'Option 1.D – Consumer product safety requirements to be defined more strictly than harmonised product safety requirements

Under Option 1.D consumer product safety requirements would be made stricter than harmonised product safety rules with respect to certain products or group of products. This would mean that **the manufacturer or importer of a consumer product would have to comply with additional product safety requirements than those in harmonised product safety rules. Such additional safety requirements could, for example, consist of the obligation to (i) put on the product a unique identification sign, such as a numeric barcode, radio frequency identifier, or (ii) to indicate on the product, its packaging or accompanying documentation of further information like place or date of manufacturing of the product, address of the company in charge of collecting clients' claims etc.'** (IA, p. 28)

There are two common features with Article 7:

- *to whom* the obligation would apply: manufacturers and/or importers; and
- *where* this requirement would be put: the product, the packaging or accompanying documentation.

However, *what* the obligation would consist of and its scope of application differ.

- First, the IA provides several alternatives for the option's content, ranging from 'the place of manufacturing' to the address of the company dealing with claims. The place of manufacturing shows some similarities to its country of origin. However, the practical implications for a manufacturer of complying with the requirement would not be the same and the list is non-exhaustive. The analysis provided, therefore, is not comprehensive.
- Second, the scope of application of the option presented in the IA does not coincide with the one of Article 7. The requirement described in the IA would apply to non-harmonised consumer products only, such as childcare articles, clothing and furniture<sup>1</sup>, whereas the proposed Article 7 would apply to all consumer products, with very few exceptions, such as medical products and antiques (for the full list of exceptions, please refer to Article 2.3 of the Commission's proposal). This is important, because the option is discarded in the IA exactly on the grounds of its scope of application. The Commission explains that, under this option, for example, a piece of low-voltage equipment (which is non-harmonised) would be regulated more strictly than a piece of high-voltage equipment (which is harmonised). It concludes that this option 'would lead to fairly absurd results' (IA, p. 38).

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<sup>1</sup> Non-harmonised products are products for which there is no EU legislation harmonising the condition for marketing. For a detailed list of such products, see Annexes to IA, pp. 105 to 111.

The proposal reduces the additional safety requirements to one requirement only (indicating the place of manufacturing), and it applies it to most consumer products. This is the scope of Article 7.

### **1.2. The 'country of origin' marking should have been one of the policy options analysed in depth.**

On the basis of the Commission IA Guidelines, an IA should include all options which: a) have significant impacts; b) are politically important; and c) are in a policy field where EU action does not exist and has not been analysed in an earlier IA (or unless it will be analysed in a follow-up IA) (Commission IA Guidelines, pp. 13-14).

On the basis of these criteria, Article 7 should have been assessed in the IA.

- Article 7 is likely to have *significant impacts*: for instance, according to available literature, country of origin marking does influence consumers' product evaluation and purchasing decisions and would contribute to redressing disparities existing in international trade.
- It is *politically important*. A proposal put forward by the Commission in 2005, which would have introduced a country of origin marking of certain goods imported from third countries (COM(2005)661), has met with opposition from some Member States and stakeholders and support from others. The same division of opinion seems to re-surface on Article 7. However, this is not mentioned in the IA under review.
- It would introduce *a new requirement in EU legislation*.

For further information, please refer to previous research carried out by the Parliament, including a recent [briefing of the Library of the European Parliament on this subject](#)<sup>2</sup>, which lists resolutions passed by the EP supporting country of origin marking, notably in the textile field.

The consulted information does not provide conclusive evidence about when Article 7 entered into play. However, even if the option was added later on in the proposed Consumer Product Safety Regulation, for example after the Commission Impact Assessment Board's (IAB) scrutiny in September 2012, the Commission services have arguably failed to comply with the obligation to re-submit the IA to the IAB if there are significant changes to the options (IA Guidelines, p. 11).

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<sup>2</sup> Besides the EP Library briefing, please see: [European Parliament, DG EXPO Information note, Origin Marking: Impact of country of origin on consumers' behaviour, 2009](#) and [European Parliament, DG EXPO Information note, Community origin marking, the new European Commission proposals, 2009](#).

DG TRADE, which was in charge of the 2005 proposal mentioned above, did not take part in the Impact Assessment Steering Group for the IA under review (IA, p. 3). The European Commission withdrew the 2005 proposal in October 2012. The European Parliament deplored this decision in a Resolution in January 2013. It invited the Commission 'to re-launch the legislative process and overcome the current stalemate'. (P7\_TA(2013)0029).

In January 2014, the European Commission submitted a non-paper to the European Parliament's IMCO Secretariat, complementing an earlier non-paper and providing responses to questions of IMCO members regarding the country of origin marking. This non-paper provides valuable arguments and useful evidence related to a number of the issues above. It draws on available studies, such as the 2013 Matrix Insight's 'Study on the need and options for the harmonisation of the labelling of textile and clothing products'. In some cases, the lack of data is acknowledged. This non-paper would be a good starting point to further explore and present the evidence base for the country of origin marking.

## 2. Obligations for economic operators

### 2.1. The policy option is partially described

The obligations of economic operators (Articles 8 to 11 of the Commission's proposal) present a different set of issues. Here, the option is identified in the following way, with a brief description in the main text and more details in an annex.

Let us first consider the main text, which - according to the Commission Guidelines - should be 'a self-standing document'.

'Option 1.B - Aligning consumer product safety requirements with harmonised product safety requirements

Under option 1.B consumer product safety requirements would be aligned as much as possible with certain harmonised product safety requirements (with the exception of conformity assessment procedures and CE-marking) as described in the following table. Differences between these two sets of rules described above in Section 2.4.1.1, would be eliminated. For all consumer products, whether harmonised or non-harmonised, a single set of general product safety requirements would apply\*. (IA, p. 27)

[Footnote]

\* The details of this alignment are described in Annex 8 (section 8.3, Table 5).'

A comparison between the above text and Articles 8 to 11 leads to the following conclusions.

- The general principle of the alignment between harmonised and non-harmonised product safety requirements creating a single set of rules is correctly identified.
- The above description states that conformity assessment procedures and the CE marking would be excluded from the alignment. However, a non-expert reader would have some difficulties in drawing this conclusion, as the conformity assessment and CE marking do not seem to be clearly defined and explained<sup>3</sup>. Incidentally, the 'following table' mentioned in the above text appears to be missing.

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<sup>3</sup> The CE marking should not be confused with the country of origin marking analysed above. The CE marking is already required for many products. It states that the product is assessed before being placed on the market and meets EU safety, health and environmental protection requirements. Conformity assessment includes activities such as testing, inspection and certification, to determine that a product fulfills the relevant requirements of the applicable

A comparison between Annex 8 and the proposal's Articles under review leads to the following conclusions.

- Annex 8 contains a useful 4-page summary of some of the changes to be introduced. Overall, already existing general or implied obligations are replaced by more detailed obligations: to keep technical documentation; to equip the product with safety instructions; to identify the person responsible for putting the product on the market; to ensure that storage and transport do not compromise safety. These changes are highlighted in an annex to this note.
- Annex 8 does not contain any reference to some other provisions of the Articles under review. These refer to:
  - All the obligations of authorised representatives, namely: to provide information to - and to cooperate with - market surveillance authorities upon request in some cases (Article 9).
  - All the obligations of distributors, namely: to verify the compliance of manufacturers and importers with a limited set of requirements, to inform manufacturers, importers and surveillance authorities in some cases, to ensure that storage and transport do not compromise a limited set of safety requirements (Article 11).
  - Additional obligations of manufacturers, namely: to carry out sample testing of products available on the market; to keep a register of complaints, non-conforming products and product recalls; to inform distributors, market surveillance authorities and the Commission in some cases; to take corrective action necessary to bring a non-conform product into conformity, to withdraw it or recall it. It also contains details about the language requirement of the technical documentation and specifies that such documentation should be kept for 10 years (Article 8).
  - Additional obligations of importers, very much in line with the additional obligations of manufacturers above. In addition, importers would also have to inform the manufacturer (Article 10).

Should these details be in an IA, according to Commission IA Guidelines?

The Commission, in line with its commitment to reduce administrative burden, has an explicit requirement at least to map the information obligations that are

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technical harmonisation legislation. It differs from the conformity and testing in the proposal's Articles under review, as it is carried out before the product is placed on the market and it is performed following technical procedures which are specified in the sectoral legislation. Source: [http://ec.europa.eu/enterprise/policies/single-market-goods/internal-market-for-products/conformity-assessment-notified-bodies/index\\_en.htm](http://ec.europa.eu/enterprise/policies/single-market-goods/internal-market-for-products/conformity-assessment-notified-bodies/index_en.htm)

likely to be introduced under each of the options, and especially for the Commission's preferred option (IA Guidelines, p. 42). Administrative costs are defined as 'the **costs incurred** by enterprises, the voluntary sector, public authorities and citizens **in meeting legal obligations to provide information** on their action or production, either to public authorities or to private parties. **Information is to be construed in a broad sense**, i.e. including labelling, reporting, registration, monitoring and assessment needed to provide the information.' (Annexes to IA Guidelines, p. 46.)

The quoted additional provisions appear to fall at least in the following categories of information obligations:

- 'cooperation with audit and inspections by public authorities... including maintenance of appropriate records';
- 'non labelling information for third parties (e.g... disclosure obligations...);
- 'inspection on behalf of public authorities (e.g... businesses having to monitor conditions...)' (Annexes to the IA, pp. 49-50)

Hence, in principle the IA should have at least mentioned these additional information obligations. Most of them are based on Decision No 768/2008/EC of the European Parliament and of the Council on a common framework for the marketing of products (See Annex 1, Chapter R2 of the Decision). As the IA for this Decision explains, the three EU institutions committed themselves to integrate such provisions as much as possible in future legislation. However, the presentational issue remains. The Commission's Impact Assessment Board had requested the originating DGs to 'describe all new obligations that would be imposed on producers/importers of non-harmonised consumer products and clarify if there are any genuine alignment alternatives' (IAB opinion). This does not seem to have received a clear response in the final IA.

## 2.2. Its impacts are partially analysed

The IA contains a useful analysis of the impacts that aligning consumer product safety requirements with harmonised product safety requirements would bring about, relying mainly on the input of stakeholder consultation (IA, pp. 35 to 37 and Annex 2).

The IA states that positive impacts can be estimated more easily than negative impacts. According to the Commission, *positive impacts* would include:

- lower information research cost for economic operators, who would not need to spend time and resources on determining which requirements apply;

- more effective and efficient market surveillance, as competent authorities would be able to track down non-compliant economic operators more quickly and at a lesser cost. The requirement to identify the manufacturer and/or the importer is singled out as particularly good, as it acts directly at the source of the risk, unlike containing the product downstream, when it reaches the distributor.

The assessment of the positive impacts seems reasonable and backed up by stakeholder consultation, especially for market surveillance authorities (95 per cent of whom are in favour of the alignment), whereas only two thirds of consulted economic operators were in favour. However, as the IA states that containing the product when it reaches the distributor is less effective, it would seem reasonable to expect that it might have better analysed the need to impose the obligations on distributors foreseen by Article 11.

According to the IA, *negative impacts* cannot be estimated easily. The IA quotes targeted stakeholder consultation and claims that most economic operators should not bear any negative impacts, as they already apply the requirement of harmonised goods to non-harmonised goods. Two exceptions are acknowledged:

- if the technical documentation were to be aligned for all products, 10 per cent of economic operators would expect a non-negligible cost increase, whereas 30 per cent would expect a cost reduction. Almost half of the respondents said they did not know;
- a potential group of disadvantaged economic operators is identified: 'manufacturers of non-harmonised products who manufacture and sell their products within a single EU Member State'. The Commission states that '[A]lthough there is a certain probability of the occurrence of negative impacts of the alignment in terms of a very small cost increase for a limited group of producers\*, this increase can be expected to be extremely marginal and would represent a hardly perceptible fraction of operating costs.' (IA, p. 37) However, the footnote\* acknowledges that 'none of these economic operators responded to the public consultation performed' (IA, p. 37, footnote 106). Hence, more information and clarification on this point would have been helpful, also because non-harmonised goods include a very broad range of products, from childcare articles, through clothing, to furniture.

In line with the framing of the options, the main weakness of the impact analysis relates to the extent of the administrative burden created by the obligations for economic operators. For policy options that entail new information obligations, the Commission's IA Guidelines require that the IA describes how this information contributes to the effectiveness of the option in achieving the

objectives. Alternative options that do not lead to additional information obligations should always be considered. Finally, the analysis of the impacts should clarify the trade-offs between information obligations and the principal objectives of the proposal. (IA Guidelines, p. 42-43)

As stated above, some information obligations are not explicitly identified and, as a consequence, their impacts do not seem to be analysed. However, even the stated changes contain some information obligations, namely some labelling requirements, and they do not appear to be explicitly considered to represent an administrative burden. This merits attention, as the IA tends to concentrate on the extent to which administrative burden might be reduced as a result of the preferred options, rather than considering any negative impact in this respect (IA, pp. 50, 52 and 56). The reasoning provided seems credible, but it might have been an opportunity to carry out a more comprehensive treatment of the issue. This was done, for instance, in the IA for the New Legislative Framework (NLF) Alignment Package (Implementation of Goods Package) (See IA, SEC(2011) 1376 final, pp. 42-43 and elsewhere).

## Conclusions

A detailed analysis of both the IA and its Annexes leads to the following conclusions.

Firstly, Article 7 of the proposal (on country of origin marking) has not been adequately covered by the Commission in its IA. The article is not explicitly identified, in its current scope and content, in the IA. Based on its internal standards, the Commission should have included this option in the IA, as it has significant impacts, is politically important and, if adopted, would introduce a new requirement for the first time in EU legislation. Therefore, with regard to Article 7 of the Commission proposal only, the IA does not fully comply with Commission standards and, as it stands, cannot completely fulfil its intended function as an aid to political decision-makers.

Secondly, the Commission has partially covered in its IA an analysis of the obligations for economic operators under Articles 8 to 11. Some obligations do not seem to have been explicitly identified, however. These include all obligations for distributors and authorised representatives and additional obligations for manufacturers and producers. Even if these obligations are mainly based on Decision No 768/2008/EC of the European Parliament and of the Council on a common framework for the marketing of products, which the three EU institutions committed themselves to integrate as much as possible in future legislation, they should have been mentioned in the IA.

Moreover, the IA could have presented the expected impacts of all obligations in a more comprehensive way. In this respect, the strongest suit of the IA seems to be the extensive process of stakeholder consultation. Hence, some weaknesses emerge where such consultation appears *prima facie* less thorough, for example for the limited response from manufacturers of non-harmonised goods. Administrative burden, in particular, could also have been usefully expanded upon.

The Inter-Institutional Common Approach to Impact Assessment foresees that '[i]n duly justified cases, the Commission, on its own initiative or at the invitation of the European Parliament and/or the Council, may decide to complement its original impact assessment', with the proviso that '[i]t must not lead to undue delays in the legislative process, nor be abused as an instrument for opposing undesired legislation or prejudice the legislator's capacity to propose amendments'. The EP Conference of Committee Chairs has recently reiterated these principles in the Parliament's own Impact Assessment Handbook.

## **Annex: Differences in the presentation of the obligations for economic operators between the Commission's proposal and the Commission's IA**

This annex quotes verbatim Articles 8 to 11 of the Commission's proposal. It greys out the sections which seem to correspond to the detailed descriptions of these obligations in the Commission's IA (Annex 8, pp. 112 to 115). It should be noted that also non-highlighted obligations are mainly based on the Decision No 768/2008/EC of the European Parliament and of the Council on a common framework for the marketing of products (See Annex 1 of the Decision, Chapter R2). The three institutions committed to integrate such provisions as much as possible in future legislation.

### **CHAPTER II**

#### **Obligations of economic operators**

##### *Article 8*

##### **Obligations of manufacturers**

1. When placing their products on the market, manufacturers shall ensure that they have been designed and manufactured in accordance with the general safety requirement laid down in Article 4.
2. Manufacturers shall ensure that procedures are in place for series production to remain in conformity with the general safety requirement laid down in Article 4.
3. Proportionate to the possible risks of a product, manufacturers shall, to protect the health and safety of consumers, carry out sample testing of products made available on the market, investigate complaints and keep a register of complaints, nonconforming products and product recalls, and shall keep distributors informed of any such monitoring.
4. Proportionate to the possible risks of a product, manufacturers shall draw up a technical documentation. The technical documentation shall contain, as appropriate:
  - (a) a general description of the product and its essential properties relevant for assessing the product's safety;
  - (b) an analysis of the possible risks related to the product and the solutions adopted to eliminate or mitigate such risks, including the outcome of any tests conducted by the manufacturer or by another party on his behalf;

- (c) where applicable, a list of the European standards referred to in point (b) of Article 5 or health and safety requirements laid down in the law of the Member State where the product is made available on the market referred to in point (c) of Article 5, or other aspects referred to in Article 6(2), applied to meet the general safety requirement laid down in Article 4.

Where any of the European standards, health and safety requirements or other aspects referred to in point (c) of the first subparagraph have been only partly applied, the parts which have been applied shall be identified.

5. Manufacturers shall keep, for a period of ten years after the product has been placed on the market, the technical documentation and make it available to the market surveillance authorities, upon request.
6. Manufacturers shall ensure that their products bear a type, batch or serial number or other element allowing the identification of the product which is easily visible and legible for consumers, or, where the size or nature of the product does not allow it, that the required information is provided on the packaging or in a document accompanying the product.
7. Manufacturers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging or in a document accompanying the product. The address must indicate a single point at which the manufacturer can be contacted.
8. Manufacturers shall ensure that their product is accompanied by instructions and safety information in a language which can be easily understood by consumers, as determined by the Member State in which the product is made available, except where the product can be used safely and as intended by the manufacturer without such instructions and safety information. Member States shall inform the Commission about any provisions adopted by them determining the required language(s).
9. Manufacturers who consider or have reason to believe that a product which they have placed on the market is not safe or is otherwise not in conformity with this Regulation shall immediately take the corrective action necessary to bring that product into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the product is not safe, manufacturers shall immediately inform the market surveillance authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the risk to health and safety and of any corrective action taken.

*Article 9*

**Authorised representatives**

1. A manufacturer may, by a written mandate, appoint an authorised representative. The obligations laid down in Article 8(1) and (4) shall not form part of the authorised representative's mandate.
2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following:
  - (a) further to a request from a market surveillance authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of a product;
  - (b) cooperate with the market surveillance authorities, at their request, on any action taken to eliminate the risks posed by products covered by their mandate.

*Article 10*

**Obligations of importers**

1. Before placing a product on the market importers shall ensure that the product is compliant with the general safety requirement laid down in Article 4 and that the manufacturer has complied with the requirements set out in Article 8(4), (6) and (7).
2. Where an importer considers or has reason to believe that a product is not in conformity with this Regulation, he shall not place the product on the market until it has been brought into conformity. Furthermore, where the product is not safe, the importer shall inform the manufacturer and the market surveillance authorities of the Member State in which he is established to that effect.
3. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging or in a document accompanying the product. They shall ensure that any additional label does not obscure any information on the label provided by the manufacturer.
4. Importers shall ensure that the product is accompanied by instructions and safety information in a language which can be easily understood by consumers, as determined by the Member State in which the product is made available, except where the product can be used safely and as intended by the manufacturer without such instructions and safety information.
5. Member States shall inform the Commission about any provisions adopted by them determining the required language(s).

6. Importers shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the general safety requirement laid down in Article 4 and its conformity with Article 8(6).
7. Proportionate to the possible risks presented by a product, importers shall, to protect the health and safety of persons, carry out sample testing of marketed products, investigate complaints, and keep a register of complaints, of non-conforming products and of product recalls, and shall keep the manufacturer and distributors informed of such monitoring.
8. Importers who consider or have reason to believe that a product which they have placed on the market is not safe or is otherwise not in conformity with this Regulation shall immediately take the corrective action necessary to bring that product into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the product is not safe, importers shall immediately inform the market surveillance authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the risk to health and safety and of any corrective action taken.
9. Importers shall keep, for a period of ten years after the product has been placed on the market, the technical documentation and make it available to the market surveillance authorities, upon request.

#### *Article 11*

#### **Obligations of distributors**

1. When making a product available on the market, a distributor shall act with due care in relation to the requirements of this Regulation.
2. Before making a product available on the market distributors shall verify that the manufacturer and the importer have complied with the requirements set out in Article 8(6), (7) and (8) and Article 10(3) and (4), as applicable.
3. Where a distributor considers or has a reason to believe that a product is not in conformity with this Regulation, he shall not make the product available on the market until it has been brought into conformity. Furthermore, where the product is not safe, the distributor shall inform the manufacturer or the importer, as applicable, to that effect as well as the market surveillance authority of the Member State in which the distributor is established.
4. Distributors shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the general safety requirement laid down in Article 4 and its conformity with Article 8(6), (7) and (8) and Article 10(3) and (4), as applicable.
5. Distributors who consider or have reason to believe that a product which they have made available on the market is not safe or is not in conformity with Article

8(6), (7) and (8) and Article 10(3) and (4), as applicable, shall make sure that the corrective action necessary to bring that product into conformity is taken, to withdraw it or recall it, if appropriate. Furthermore, where the product is not safe, distributors shall immediately inform the manufacturer or importer, as applicable as well as market surveillance authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the risk to health and safety and of any corrective action taken.

## References

- European Parliament Impact Assessment Handbook (2013).
- European Commission Impact Assessment Guidelines, SEC(2009)92.
- Inter-Institutional Common Approach to Impact Assessment (IA).
- Proposal for a Regulation of the European Parliament and of the Council on consumer product safety and repealing Council Directive 87/357/EEC and Directive 2001/95/EC, COM(2013) 78.
- Commission staff working document, Impact Assessment accompanying the document Product Safety and Market Surveillance Package, A proposal for a Regulation of the European Parliament and the Council on consumer product safety and a proposal for a Regulation of the European Parliament and of the Council on market surveillance for products, SWD(2013) 33 final/2.
- Commission staff working document, Annexes to the Impact Assessment... (see above), SWD(2013) 33 final/2.
- Commission staff working document, Executive Summary of the Impact Assessment... (see above), SWD(2013) 34 final.
- Opinion of the Impact Assessment Board, DG SANCO and DG ENTR - Impact Assessment on a proposal for a Directive 2001/95/EC on general product safety and the proposal for a Regulation of the European Parliament and of the Council on market surveillance for products, (draft version of 17 August 2012 ), Ref. Ares(2012)1099281 - 21/09/2012.
- *Product Safety and Market Surveillance package*, Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee, More Product Safety and better Market Surveillance in the Single Market for Products, COM(2013) 74 final.
- *New Legislative Framework (NLF) Alignment Package (Implementation of Goods Package)*, Commission Staff Working Paper, Impact Assessment, Accompanying document to the 10 proposals to align product harmonisation Directives to Decision No 768/2008/EC, SEC(2011) 1376 final.
- *Product Safety and Market Surveillance package*, Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the implementation of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products, COM(2013) 77 final.

- European Parliament, Impact Assessment Unit, *Initial appraisal of a European Commission Impact Assessment, European Commission proposal on Product Safety and Market Surveillance Package*, May 2013.
- Proposal for a Regulation of the European Parliament and of the Council on market surveillance of products and amending Council Directives 89/686/EEC and 93/15/EEC, and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 1999/5/EC, 2000/9/EC, 2000/14/EC, 2001/95/EC, 2004/108/EC, 2006/42/EC, 2006/95/EC, 2007/23/EC, 2008/57/EC, 2009/48/EC, 2009/105/EC, 2009/142/EC, 2011/65/EU, Regulation (EU) No 305/2011, Regulation (EC) No 764/2008 and Regulation (EC) No 765/2008 of the European Parliament and of the Council, COM(2013) 75 final.
- European Parliament, Report on the proposal for a regulation of the European Parliament and of the Council on consumer product safety and repealing Council Directive 87/357/EEC and Directive 2001/95/EC, A7-0355/2013.
- European Commission, DG Enterprise and Industry's website, *Conformity assessment and Notified bodies*.
- Commission Working Document, DG Health & Consumer, *Results of the public consultation on the revision of the General Product Safety Directive*, 17 November 2010.
- Library of the European Parliament, Library Briefing, *Indication of origin marking on products*, 6 May 2013.
- European Parliament, Directorate General for External Policies, Policy Department, *Origin marking: impact of country of origin on consumers' behaviour (and comparative analysis of OM schemes in third countries)*, 2009.
- European Parliament, Directorate General for External Policies of the Union, Directorate B, Policy Department, *Community origin marking: the new European Commission proposals*, General Briefing, 2009.
- European Parliament, Directorate General for Internal Policies of the Union, Policy Department A, *Study on Labelling of textile products*, 2010.
- Matrix Insight, *Study of the need and options for the harmonisation of the labelling of textile and clothing products*, 2013.





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This detailed appraisal analyses, from a methodological perspective, part of the European Commission's Impact Assessment accompanying its proposal for a Consumer Product Safety Regulation: the country of origin marking (Article 7) and the obligations for economic operators (Articles 8 to 11).

It does not attempt to deal with the substance of the proposal and is drafted for information purposes to assist the Internal Market and Consumer Protection (IMCO) Committee in its work.

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