

Indication of the country of origin of certain products imported from third countries *I**

European Parliament legislative resolution of 21 October 2010 on the proposal for a regulation of the European Parliament and of the Council on the indication of the country of origin of certain products imported from third countries (COM(2005)0661 – C7-0048/2010 – 2005/0254(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2005)0661),
 - having regard to the Commission Communication to Parliament and the Council entitled ‘Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures’ (COM(2009)0665),
 - having regard to Article 294(2) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0048/2010),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade (A7-0273/2010),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 21 October 2010 with a view to the adoption of Regulation (EU) No .../2011 of the European Parliament and of the Council on the indication of the country of origin of certain products imported from third countries

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to proposal from the European Commission,

Acting in accordance with the ordinary legislative procedure¹,

Whereas:

- (1) *The European Union does not have harmonised provisions or uniform practices on origin marking in the Union, except for some specific cases in the agricultural sector.*
- (2) This Regulation should apply to imported industrial products, excluding fishery and aquaculture products as defined in Article 1 of Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products², and also excluding foodstuff as defined in Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety³.

¹ Position of the European Parliament of 21 October 2010.

² OJ L 17, 21.1.2000, p. 22.

³ OJ L 31, 1.2.2002, p. 1.

- (3) *Today many companies in the Union already voluntarily use origin marking.*
- (4) The absence of Union rules and the disparities between the systems in force in the Member States, as regards the indication on certain products of their country of origin, has given rise to a situation where in a number of sectors a major share of products imported from third countries and distributed within the Union market are found to carry no or misleading information concerning their country of origin. *These disparities are also leading to a situation where import traffic from third countries is shifting towards particular Union points of entry which suit the exporting country most.*
- (5) *The results of the Commission's general stakeholder consultation (which included industry, importers, consumers associations, trade unions) on the possible development of an EU Regulation on origin marking indicate that Union consumers' perception of the relevance of origin marking for informing them in relation to safety and social and environmental concerns is generally high.*
- (6) *Union regulation of origin marking is perceived by EU citizens to be closely linked with protection of their health and safety.*
- (7) *In the Lisbon Agenda, the EU set itself the objective of strengthening the Union economy by, inter alia, improving the competitiveness of the Union industry in the world economy and the EU 2020 strategy is committed to building on this need for improving competitiveness; for certain categories of consumer goods, competitiveness may lie in the fact that their production in the EU is associated with a reputation for quality and high production standards.*
- (8) *Union rules on origin marking would strengthen the competitiveness of Union firms and of the Union economy as a whole by enabling citizens and consumers to make informed choices.*

- (9) The economic significance of origin marking to consumer decision and trade is recognised by the practice of other major trading partners which have enacted mandatory origin marking requirements. Exporters in the Union have to comply with those requirements and have to mark the origin on products they wish to export to these markets.
- (10) *There have been several cases of health and safety incidents arising from products imported into the EU from third countries. A clear indication of origin will give EU citizens more information and more control over their choices, thus offering them protection from unknowingly purchasing products of potentially dubious quality.*
- (11) *The Member States' customs authorities should perform border checks and controls on the implementation of this Regulation via a single harmonised procedure so as to reduce the administrative burden.*
- (12) *In order to ensure that this Regulation is effective and only imposes light administrative burdens whilst granting the maximum flexibility for Union companies, it should be in compliance with existing "made-in" schemes worldwide.*
- (13) The Union should be put on equal terms with trade partners by putting in place equivalent legislation which will also contribute to prevent false or misleading claims of origin of certain imported goods.
- (14) According to Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market¹, consumers may attach commercial value to information on the geographical origin of a good. According to that Directive, where false or misleading information about the geographical origin leads a consumer to buy a product which he would not have bought otherwise, this may constitute an unfair commercial practice. That Directive does not mandate that information on the geographical origin of goods be provided, nor does it define the concept of origin.

¹ OJ L 149, 11.6.2005, p. 22.

- (15) *An origin marking scheme would enable consumers to identify products with the social, environmental and safety standards generally associated with the country of origin.*
- (16) The creation of a common definition of origin for marking purposes, of marking rules, and of common rules on controls would thus create a level playing field, facilitate consumer choice in the sectors covered, and contribute to reducing the level of misleading claims of origin.
- (17) The introduction of a mark of origin can contribute to make demanding Union standards work in favour of the Union industry, especially small and medium enterprises, *which often put a genuine effort into the quality of their products and which also preserve traditional and artisanal jobs and methods of production, but which are also greatly exposed to global competition which lacks rules that distinguish between production methods*. It will also help to prevent the reputation of the Union industry being tainted by inaccurate claims of origin. Improved transparency and consumer information about the origin of goods will thus contribute to the objectives of the Lisbon agenda *and those of the EU 2020 Strategy*.
- (18) Article IX of the General Agreement on Tariffs and Trade (GATT) 1994 provides that WTO members may adopt and enforce laws and regulations relating to marks of origin on imports, notably to protect consumers against fraudulent or misleading indications.
- (19) *Rules on origin marking also provide effective protection against counterfeiting and unfair competition, thereby enhancing the effectiveness of Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights¹ providing a further important instrument to protect and enhance Union production.*

¹ *OJ L 196, 2.8.2003, p. 7.*

- (20) Under the Agreements between the European Community and Turkey, and the Contracting Parties to the EEA Agreement, it is necessary to exclude products originating in these countries from the scope of the present Regulation.
- (21) The Union's non-preferential rules of origin are laid down in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code¹ and its implementing provisions in Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code². It is preferable to rely on these rules of origin to determine the origin of imported goods for the purpose of this Regulation. Using a concept with which trade operators and administrations are well acquainted should ease its introduction and implementation. Non-preferential rules of origin should be applied for all non-preferential commercial policy purposes. The duplication of declarations and documentation should be avoided.
- (22) In order to limit the burden on industry, trade and administration, origin marking should be made mandatory for those sectors for which the Commission, based on prior consultation, found that there was value added. Provision should be made for the exemption of specific products for technical reasons or where origin marking is otherwise unnecessary for the purposes of this Regulation. This may be the case, in particular, where origin marking would damage the goods concerned, or with regard to certain raw materials.
- (23) Provision should be made so that data on the origin of goods generated and/or verified during controls by the competent authorities can be exchanged, including with authorities and other persons and organisations, for which Member States envisage an enforcement role pursuant to Directive 2005/29/EC. Account should be taken of the protection of personal data, commercial and industrial secrecy, and professional and administrative confidentiality.

¹ OJ L 302, 19.10.1992, p. 1.

² OJ L 253, 11.10.1993, p. 1.

- (24) *In accordance with Article 291 of the Treaty on the Functioning of the European Union (TFEU), rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of its implementing powers shall be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation, the provisions of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹ continues to apply, with the exception of the regulatory procedure with scrutiny which is not applicable.*
- (25) *The Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU in order to determine the cases in which the marking on the packaging may be accepted in lieu of marking on the goods themselves, or when the goods cannot or need not be marked for technical reasons, as well as measures to determine other rules that may be required when goods are found not to be in compliance with this Regulation or to update the Annex thereto where the assessment has changed as to whether origin marking is necessary for a specific sector.*
- (26) Goods in travellers' personal luggage for personal use should be exempted from the application of this Regulation within the limits laid down in respect of relief from customs duty, and if there are no indications to suggest that the goods are part of commercial traffic. Provision should be made that the other situations covered by Council Regulation (EC) No. 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty (codified version)² may also be excluded from the scope of this Regulation by means of the implementing provisions,

¹ OJ L 184, 17.7.1999, p. 23.

² OJ L 324, 10.12.2009, p. 23.

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation shall apply to ***end consumer*** products excluding fisheries and aquaculture products as defined in Article 1 of Regulation (EC) No 104/2000, and foodstuff as defined in Article 2 of Regulation (EC) No 178/2002.

2. ***End consumer products*** that require marking are those ***which are destined for end consumers and*** listed in the Annex to this Regulation, and imported from third countries, except for ***products*** originating in the Territory of the European ***Union***, Turkey, and the Contracting Parties of the EEA Agreement.

End consumer products may be exempted from origin marking, when for technical reasons, it appears impossible to mark them.

The products to which this Regulation is to apply are limited to end consumer products. The scope of this Regulation can be extended by the Commission, subject to the approval of the European Parliament and the Council.

End consumer products in the case of textiles and textile articles (Chapters 50 to 63), footwear, gaiters and the like (Chapter 64), articles of apparel, clothing accessories and other articles of fur skin, artificial fur and articles thereof (CN codes 4303/4304), crust and finished leather, saddlery and harness, travel goods, handbags and similar containers, articles of animal gut (other than silkworm gut) (CN codes 4104 41 / 4104 49 / 4105 30 / 4106 22 / 4106 32 / 4106 40 / 4106 92 / 4107 to 4114 / 4302 13 / ex 4302 19 (35, 80)) shall mean a finished product or a semi-manufactured product which requires further processing in the Union before it is marketed.

3. The terms ‘origin’ and ‘originating’ shall refer to non-preferential origin in accordance with the Articles 22 to 26 of the Community Customs Code.

4. ‘Placing on the market’ shall mean the making available on the Union market of an individual product intended for end use, with a view to distribution and/or use, whether in return for payment or free of charge.

5. ‘Competent authorities’ shall mean any authorities involved in the control of goods either at the time of importation or at the time of placing on the market of such goods.

6. This Regulation shall not apply to goods of a non-commercial nature contained in travellers’ personal luggage within the limits laid down in respect of relief from customs duties, and provided that there are no material indications to suggest that the goods are part of commercial traffic.

When imported goods may be granted relief from import duties pursuant to Regulation (EC) No 1186/2009, and there are no material indications to suggest that the goods are part of commercial traffic, these goods *shall* also be excluded from the scope of this Regulation.

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7. This Regulation must be in compliance with already existing "made-in" schemes worldwide, to ensure an effective regulation with light administrative burdens and more flexibility for Union companies.

Article 2

The importation or placing on the market of goods shall be subject to origin marking under the conditions established in this Regulation.

Article 3

1. The country of origin of goods shall be marked on these goods. In the event that goods are packaged, the marking shall *also* be indicated separately on the package.

The Commission may adopt *by means of delegated acts* measures ■ to determine cases in which marking on the packaging shall be accepted in lieu of marking on the goods themselves. This should, in particular, be the case where goods do normally reach the final consumer or user in their usual packaging. *Such measures and any reviews thereof shall be adopted by the Commission in accordance with the procedure set out in Article 7.*

2. The words “made-in” together with the name of the country of origin shall indicate the origin of the goods. The marking may be indicated in any official language of the European Union, which is easily understood by the final customers in the Member State in which the goods are to be marketed *or in the English language by using the words “made-in” and the English name of the country of origin.*

3. 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.

The marking may not appear in characters other than those of the Latin alphabet for products marketed in countries where the language is written in that alphabet.

4. The goods shall bear the required marking on importation. Without prejudice to measures taken pursuant to Article 5(3), the marking may not be removed or tampered with until the goods have been sold to the final consumer or user.

Article 4

I. The Commission may adopt implementing measures, in accordance with the procedure referred to in Article 6(2), in particular, to:

- determine the detailed form and modalities of origin marking;
- establish a list of terms in all official languages of the European Union languages which clearly express the idea that goods originate in the country indicated in the marking;
- determine the cases where commonly used abbreviations unmistakably indicate the country of origin and can be used for the purposes of this Regulation.

2. The Commission may adopt by means of delegated acts measures to:

- determine the cases in which goods cannot or need not be marked for technical reasons;
- determine other rules that may be required when goods are found not to be in compliance with this Regulation;
- update of the Annex to this Regulation where the assessment has changed as to whether origin marking is necessary for a specific sector.

Such measures and any reviews thereof shall be adopted by the Commission in accordance with the procedure set out in Article 7.

Article 5

1. Goods are not in compliance with this Regulation, if:

- they do not bear an origin marking;
- the origin marking does not correspond to the origin of the goods;
- the origin marking has being changed or removed, or has otherwise been tampered with, except where correction has been required pursuant to paragraph 3 of this Article.

2. The Commission may adopt further implementing measures in accordance with the procedure referred to in Article 6(2) as to declarations and supporting documents that can be taken to demonstrate compliance with this Regulation.

3. The Commission shall propose minimum common standards for the penalties applicable to infringements of the provisions of this Regulation.

4. The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation, ***on the basis of the minimum common standards proposed by the Commission***, and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission within nine months after the entry into force of this Regulation, at the latest, and shall notify it without delay of any subsequent amendment affecting them. ***The Commission must ensure at least a minimum level of harmonisation of the penalty systems in the Member States so as to prevent differences among them from prompting exporters to use certain points of entry to the Union in preference to others.***

5. Where goods are not in compliance with this Regulation, Member States shall furthermore 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. ***The Member States shall notify these provisions to the Commission by ...***
**** at the latest, and shall notify it without delay of any subsequent amendment affecting them.***

6. Where necessary for the effective application of this Regulation, the competent authorities may exchange data received when controlling compliance with this Regulation, including with authorities and other persons or organisations which Member States have empowered pursuant to Article 11 of Directive 2005/29/EC.

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Nine months after the entry into force of this Regulation.

Article 6

1. The Commission shall be assisted by an Origin Marking Committee (hereinafter referred to as 'the Committee'). ***This Committee shall be composed of representatives of the Member States, relevant industries and associations.***

2. Where reference is made to this paragraph, ***Articles 3*** and 7 of Decision 1999/468/EC shall apply.

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3. The Committee shall adopt its rules of procedure.

Article 7

Exercise of the delegation

1. ***The power to adopt delegated acts referred to in Articles 3 and 4(2) shall be conferred on the Commission for the period of application of this Regulation.***

2. ***As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.***

3. ***The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 8 and 9.***

Article 8
Revocation of the delegation

- 1. The delegation of power referred to in Articles 3 and 4(2) may be revoked at any time by the European Parliament or by the Council.*
- 2. The institution which has commenced an internal procedure for deciding whether to revoke a delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated power which could be subject to revocation and possible reasons for a revocation.*
- 3. The decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.*

Article 9
Objections to delegated acts

- 1. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification.*

At the initiative of the European Parliament or the Council this period shall be extended by two months.

- 2. If, on expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein.*

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. *If either the European Parliament or the Council objects to a delegated act within the period referred to in paragraph 1, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.*

Article 10

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*. Articles 2, 3 and 5 shall apply 12 months after the entry into force of this Regulation. In accordance with the procedure referred to in Article 6 (2), the Commission may extend this period by the time needed for operators to put into practice the origin marking requirements set by the implementing provisions, and in no case by less than six months.

No later than ...* the Commission shall carry out a study on the effects of this Regulation.

This Regulation shall expire ...**. One year before the end of the expiry period the European Parliament and the Council, on the basis of a proposal submitted by the Commission, shall decide to extend or amend it.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ,

For the European Parliament
The President


For the Council
The President

* ***Three years after the entry into to force of this Regulation.***

** ***Five years following the entry into force of this Regulation.***

ANNEX

The products on which this Regulation is to apply are identified by their CN codes.

CN Code	Description
4011 92 00	<i>New pneumatic tyres, of rubber, of a kind used on agricultural or forestry vehicles and machines (excluding those having a herring-bone or similar tread)</i>
4013 90 00	<i>Inner tubes, of rubber (excluding those of a kind used on motor cars, including station wagons and racing cars, buses, lorries and bicycles)</i>
4104 41 / 4104 49 / 4105 30 / 4106 22 / 4106 32 / 4106 40 / 4106 92 / 4107 to 4114 / 4302 13 / ex4302 19 (35, 80)	Crust & Finished Leather
4008 21 / 4008 11 / 4005 99 / 4204 / 4302 30 (25, 31) 8308 10(00) / 8308 90(00) / 9401 90 / 9403 90	Heels, Soles, Bands, Parts, synthetics, others
4201 / 4202 / 4203 / 4204/ 4205 / 4206	Saddlery and harness, travel goods, handbags and similar containers, articles of animal gut (other than silkworm gut)
4303 / 4304	Articles of apparel, clothing accessories and other articles of furskin, artificial fur and articles thereof
Ch 50 – 63	Textiles and textile articles
6401 / 6402 / 6403 / 6404 / 6405 / 6406	Footwear, gaiters and the like
6904/ 6905/ 6907 / 6908 / 6911 / 6912 / 6913 / 6914 90 100	Ceramic products
7013 21 11 / 7013 21 19 / 7013 21 91 / 7013 21 99 / 7013 22 10 / 7013 31 10 / 7013 31 90 / 7013 91 10 / 7013 91 90	Glassware of kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than headings 7010 or 7018) of lead crystal, <i>gathered by hand</i>
7113/7114/7115/7116	Articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal, Articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious, Other articles of precious metal clad with precious metal, Articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed)
7318	<i>Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel</i>
8201/ 8202/ 8203/ 8205/ 8207/ 8208/ 8209/ 8211/ 8212/ 8213/ 8214/ 8215	<i>Tools, implements</i>
8302 20 00	<i>Castors with mountings of base metal</i>
8481	<i>Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves</i>
9307	<i>Swords, cutlasses, bayonets, lances and similar arms and parts thereof and scabbards and sheaths therefor</i>
Ch. 94	Furniture, bedding, mattresses, cushions, lamps and lighting fittings, illuminated signs and the like, prefabricate buildings
9603	Brooms, brushes  , hand-operated mechanical floor sweepers, not motorised, mops and feather dusters; prepared knots and tufts for broom or brush making; paint pads and rollers; squeegees (other than roller squeegees)