

P-5938/07 EN  
Answer given by Mr Verheugen  
on behalf of the Commission  
(9.1.2008)

The Commission is aware that there exists the misconception attributing CE marking the meaning “Chinese export”. The Commission is not aware of the existence of a “China export mark” but considers that the mark the Honourable Member refers to constitute the CE marking as foreseen in the European legislation without, however, respecting the dimensions and proportions prescribed therein.

The Commission is aware that CE marking, like any other mark, is misused, e.g. CE marking is affixed to products which do not fulfil the requirements and conditions for its affixing or it is affixed to products for which the affixing is not foreseen. There are also cases where, whilst the product is in compliance with the applicable requirements the CE marking itself does not respect the formal requirements, namely the form of the CE marking or the dimensions and proportions prescribed in the legislation.

The Commission considers market surveillance to be the crucial element to prevent CE marking from being misused. According to the principle of subsidiarity market surveillance is primarily a task of the Member States. Products bearing CE marking although they do not comply with the applicable requirements must be identified by the national competent authorities and subsequently be withdrawn from the market.

As market surveillance does not work on a uniform level throughout the EU the Commission deems it necessary to establish a comprehensive Community legislative framework in order to ensure coherent market surveillance. The Commission, therefore, proposed a draft Regulation setting out the requirements for market surveillance relating to the marketing of products<sup>1</sup>. This draft Regulation aims at strengthening market surveillance for industrial products and making it more effective and more efficient in all Member States, consumer goods already being covered by the General Product Safety Directive<sup>2</sup>. The proposal sets out minimum requirements in terms of resources and surveillance activities and establishes cooperation and information obligations between authorities, both on a national level and across borders. Furthermore, it will establish an obligation for Member States to execute appropriate checks on the characteristics of a product on an adequate scale before it is released for free circulation. In addition it will introduce the possibility for national authorities to destroy non-compliant products. It also provides for the legal basis for Member States to impose sanctions in the case of misuse which should serve as a deterrent. However, it is up to Member States to actually use this power.

The Commission is in constant discussion with Chinese authorities in order to ensure that Chinese exporters respect Community legislation.

The Commission has already initiated the procedure to register CE marking as a Community collective trademark. National market surveillance authorities will have an additional means to take legal action against manufacturers providing non-compliant products and misusing CE marking. In addition, economic operators/competitors will be entitled to bring proceedings for infringement and to claim for compensation.

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<sup>1</sup> COM(2007) 37 final.

<sup>2</sup> Directive 2001/95/EC of the Parliament and of the Council of 3 December 2001 on general product safety, OJ L 11, 15.1.2002.