

EUROPEAN ECONOMIC AREA
STANDING COMMITTEE
OF THE EFTA STATES

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SUBCOMMITTEE I ON THE FREE MOVEMENT OF GOODS

**EEA EFTA COMMENTS ON
THE EU ORIGIN MARKING SCHEME: 'MADE IN EU'**

Executive Summary

The EEA EFTA States welcome the opportunity to give some preliminary comments on the "Made in EU" proposal. We appreciate the Commission's understanding of particular EEA aspects and the expressed interest in taking these perspectives into account.

The EEA EFTA States actively support the aims of creating a better functioning Internal Market. In this regard, the EEA EFTA States would like to recall their support for reinforcing the role of CE marking as a passport for free circulation of industrial products and to strengthen the Keymark as a single voluntary quality mark.

At the same time, the EEA EFTA States fear that the introduction of the "Made in EU" scheme could constitute a new barrier to trade between EEA partners. On this background, the preferred alternative for the EEA EFTA States would be not to introduce a new EU origin marking scheme.

If the process culminates in the introduction of a new "Made in EU" marking scheme, the EEA EFTA States stress that it must be fully compatible with the principles of the EEA Agreement and not create any new barriers to trade for the EEA EFTA States in relation to the Internal Market. This is valid for all three options (voluntary/compulsory/mixed) outlined in the Working Document and full scrutiny of possible impact of the three options needs to be carried out.

The EEA EFTA States are looking forward to a continued dialogue with the Commission concerning an EU origin marking scheme and EEA aspects linked to it.

I Trade aspects of an EU origin marking scheme

1. The EEA EFTA States observe that there are no common provisions or uniform practices on origin marking in the EU today, except for some specific cases in the agricultural field. The existing rules of origin in the EU, preferential or non-preferential, are linked to declarations that accompany goods. The EEA EFTA States observe that the present system of origin marking in the Community is based on national legislation. Taking due account of the principle of subsidiarity applicable for the introduction of new Community legislation, the EEA EFTA States do not see the need for a new 'Made in EU' scheme.

2. The EEA EFTA States would like to recall the process of launching the new WTO round and the need to create a favourable climate for the new negotiations. An EU origin marking scheme could be considered by trading partners as a measure restricting access to the Internal Market.

3. The EEA EFTA States are as devoted as the other EEA Member States to boosting a well functioning Internal Market, including systems for marking creating a European identity. *The EEA EFTA States are therefore fully supporting new Commission initiatives in strengthening the importance and visibility of the CE-marking as “the passport” for free circulation of industrial goods within the Internal Market*¹. Voluntary certification marks should not lead to a fragmentation of the Internal Market, and the EEA EFTA States advocate that increased efforts be made to strengthen the European Keymark as a single voluntary quality mark attesting conformity with European Standards. The EEA EFTA States fear that the introduction of additional marking provisions could dilute the current initiatives to strengthen the CE marking.

II EEA aspects of an EU origin marking scheme

4. Were an EU origin marking scheme to be introduced, the following EEA aspects would need to be taken into account.

5. The EEA EFTA States welcome that the Commission has addressed important EEA aspects related to **quantitative restrictions**. The Commission underlines that *‘Any proposed scheme should also contribute to the effective functioning of the internal market and should determine the necessary instruments of control and verification by national administrations, as well as proposing specific measures, if necessary, to resolve any potential inconsistencies with our commitments in the EEA’*.

6. In this regard the EEA EFTA States would like to recall that Articles 11 and 13 of the EEA Agreement are identical to Articles 28 and 30 of the EU Treaty. According to the case law established by the EC Court of Justice, mandatory marking systems are to be considered as quantitative restrictions. These considerations are also applicable for the EEA EFTA States. The basic intention of these articles is to ensure that quantitative restrictions on imports and all measures having equivalent effect are *prohibited*. If the EEA EFTA States were not fully integrated into the EU marking scheme, this could be considered as a new barrier to trade between the EEA partners.

7. In relation to the **Internal Market**, the Commission’s Working Paper states that the objective is *“to introduce greater homogeneity and clarity across the EU internal market through an EU-wide instrument ...”*.

8. The EEA EFTA States are part of the Internal Market. EU policies promoting the visibility of the Internal Market need to ensure the same possibilities for *all* economic operators within the EEA. Article 1 of the EEA Agreement stresses the aim to create *“equal conditions for competition”*. Introduction of the ‘Made in EU’ scheme would imply a disadvantage for the economic operators in the EEA EFTA States (if the system were not extended to the EEA EFTA States).

9. In this regard, the EEA EFTA side would like to recall paragraph 8 of Protocol 1 on Horizontal adaptations to the EEA, stating that whenever an act referred to contains references to the territory of the ‘Community’ or the ‘common market’ the references shall be understood to be references to the territories of the Contracting Parties, thus including the EEA EFTA states. *In*

¹ See EEA EFTA Comments to the EC Communication: Enhancing the Implementation of the New Approach directive (COM(2003) 240) in document Ref.No.: 1015108.

practical terms this could be interpreted to imply that the term 'Made in EU' also includes the EEA EFTA States.

10. The Commission has also identified as a main objective “*to provide comprehensive and accurate **information to the consumers** in the country of origin of products and in a way that would promote in parallel the image and attractiveness of EU products...*”.

11. Consumer aspects are covered by the EEA Agreement, in i.a., the Preamble stating: “*Determined to promote the interests of consumers and to strengthen their position in the market place, aiming at a high level of consumer protection.*”² The EEA EFTA States share the Commission’s goals in relation to information to consumers as well as the need to strengthen the image of European products. However, the EEA EFTA States would encourage other alternatives promote the Internal Market i.a linked to the CE-marking.

12. The Commission has outlined **three options for introducing the scheme, i.e., voluntary, mandatory or mixed**. Any different treatment of the economic operators in the EEA EFTA States from that of the EU Member States could place the economic operators in the EEA EFTA States in a competitively disadvantageous position. The principle is that economic operators shall be treated in the same manner within the entire EEA.

- In the case of a *voluntary* system, this implies a possibility to apply ‘Made in EU’ under the same conditions within the EEA.
- If the *mandatory* model were applied, lack of access to the same ‘EU marking scheme’ would imply different conditions of competition within the EEA.
- If a *mixed* system with compulsory origin marking for imported goods and voluntary EU marking on domestic production were applied, all products originating in the EEA would need to be treated in the same manner, following the same marking scheme.

13. The *conclusion* is therefore that irrespective of a mandatory, voluntary or mixed ‘Made in EU’ scheme, *the system should fully respect the objectives of creating a homogenous EEA-based on equal conditions for competition.*

IV FOLLOW-UP

14 The EEA EFTA States would welcome a continued dialogue with the Commission both on the desirability of a ‘Made in EU’ scheme and, if the scheme materializes, modalities related to the EEA aspects.

² Consumer protection is covered by Article 72 and Annex XIX of the EEA Agreement.