



**MANDATORY MARKING AND LABELLING REQUIREMENTS ON IMPORTED PRODUCTS:
PRACTICAL COMPLIANCE ISSUES**

EIGHTH TRIENNIAL REVIEW

Submission from the European Union

The following submission, dated 6 June 2018, is being circulated at the request of the delegation of the European Union.

1 INTRODUCTION

1.1. Marking and labelling requirements affect a very large portion of global trade since most of the goods placed on the market are subject to regulations on labelling. The growing complexity in labelling practices should also be taken into account. It can therefore be acknowledged that marking and labelling requirements can have a significant impact on trade.

1.2. Marking and labelling requirements are explicitly mentioned in the definitions of "technical regulation" and "standard" in Annex 1 of the TBT Agreement. Measures laying down this kind of requirements are the subject of a significant share of Specific Trade Concerns (STCs) discussed in the TBT Committee.¹

1.3. Marking and labelling is potentially a very wide topic, which is relevant for several different sectors and may concern mandatory and voluntary measures. Such requirements can be based on the characteristics of the product, on its use/consumption/disposal, or on process and production methods. They can have different rationales: amongst others, indicating the product's conformity with mandatory technical requirements, indicating the identity of manufacturers, informing consumers about safety, health and environmental issues, informing consumers about product ingredients, the origin of the products and/or their ingredients (and therefore ensuring traceability), or the quality of products. Members are likely to attach great importance to the policy objectives underlying these requirements.

1.4. Taking into account the legitimate objectives pursued by WTO Members when regulating aspects linked to marking and labelling, the present submission proposes to focus exclusively on practical aspects of compliance with mandatory marking and labelling requirements affecting imported products.

1.5. The objective would be to promote measures and practices that enable producers to fulfil the legitimate objectives pursued by mandatory marking and labelling requirements in the least costly and burdensome way possible, thereby facilitating trade.

2 FACILITATING IMPORTERS' COMPLIANCE WITH MANDATORY MARKING AND LABELLING REQUIREMENTS

2.1. In laying down mandatory marking and labelling requirements falling under the definition of technical regulations, Members have to fulfil the "necessity" and "proportionality" obligations under Article 2.2 of the TBT Agreement.

¹G/TBT/W/184.

2.2. One aspect that marking and labelling requirements usually regulate is the kind of information that needs to be affixed on the label of the product. To facilitate compliance by producers and therefore minimise the restrictive impact on trade, the scope of these requirements should be limited to information which is relevant for consumers or users of the product, or which is needed to indicate the product's conformity with mandatory technical requirements.

2.3. Mandatory marking and labelling provisions should not require that the marking and labels themselves are subject to prior approval, registration or certification, nor to any fee disbursement, as a precondition for placing products on the market that, otherwise, comply with its mandatory technical requirements, unless it is necessary in view of the risk that a product may pose in terms of human, animal or plant health or life, the environment or national security.

2.4. The existence of different marking and labelling requirements in different countries imposes costs for producers who wish to supply several markets. To address this issue, it would be important to allow the use on the label of: information in other languages in addition to the language required in the importing Members; internationally-accepted nomenclatures, pictograms, symbols or graphics; and additional information to that required in the importing Member. This possibility should be allowed unless this is misleading, contradictory or confusing in relation to the information required in the importing Member, or not in line with specific legal requirements in the importing Member.

2.5. Finally, practical issues such as the method and timing of label application can have a significant impact on compliance costs for businesses. In this respect, the following three aspects should be highlighted:

- a. To facilitate compliance and minimise the impact on trade, it should be accepted that labelling, including supplementary labelling and/or corrections to labelling, take place under customs supervision in customs warehouses or other designated areas in the customs territory of the importing party, as an alternative to labelling in the customs territory of the exporting party or of the party where products originate. This may, however, not be possible for higher risk products.
- b. The acceptance of non-permanent or detachable labels, or marking or labelling in the accompanying documentation rather than physically attached to the product, also facilitates trade. This should be used when possible without undermining the policy objectives pursued by the requirements, including the ability of competent authorities to easily and efficiently perform visual checks of the products.
- c. Concerning the timing for the application of labelling requirements, economic operators should have sufficient time to adapt the labels of their products, taking also into account the costs of modifying the labels and the need to exclude products already placed on the market from the application of new labelling requirements.

3 PROPOSAL

3.1. The EU proposes to discuss in the TBT Committee how to facilitate compliance with mandatory marking and labelling requirements on imported products, with a view to developing recommendations or other guidance documents to support Members in the implementation of the TBT Agreement and, in particular, Article 2.2. The guidance and recommendations should aim at addressing in particular:

- a. The method and timing of label application, and notably the possibility of labelling products at the country of import before they are placed on the market/in free circulation, without jeopardising the traceability of products;
 - b. The use of multiple languages on labels.
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