

NEGOTIATION AND DECISION-MAKING IN THE EUROPEAN UNION

**Council Negotiation on
Indication of the country of origin of certain products
imported from third countries**

Simulation Exercise

Moscow, November 2007

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1. The Subject

In December 2003 the Commission submitted to the 133 Committee of the Council a working document on a possible EU origin marking scheme, following a renewed interest shown on the subject by some Member States and some sectors. The Member States and the sectors in question were expressing a growing concern over the mounting incidence of misleading and/or fraudulent origin marks being carried by imported products. Requests were made for rules to require origin marking of imports and/or EU products.

In the first half of 2004, the Commission launched a consultation process on this question involving the main stakeholders - industry, trade unions, consumers and other institutions - the results of which were discussed in the 133 Committee in July 2004. The 133 Committee invited the Commission to consult further on the feasibility of an origin marking scheme applicable to selected import categories, as well as other options, and to submit its conclusions and a recommendation to the Council. Accordingly, from September 2004 to April 2005 further consultations were held.

Taking into account the results of the above consultation process, the Commission has presented a proposal for Regulation for the introduction of a compulsory origin marking scheme covering a number of sectors which see benefit in the initiative (see annex), and applicable to imported goods only. This is the option which, on balance, takes best into account the interests of the larger share of stakeholders (industry, trade unions, and part of the consumer movement), it is an option which limits any costs and negative effects for other interested parties (EU industries that have delocalised their production, traders), and which ensures at the same time a positive impact as regards the policy objectives of the initiative.

The Council's Working Group on this issue will meet in the evening of November 27, 2007 in order to discuss the proposal and prepare the agenda for the COREPER

The Committee of Permanent Representatives (COREPER) will meet in the evening of November 28, 2007 in order to discuss this proposal and set the agenda for the Council.

On November 29, 2007 the General Affairs and External Relations Council (GAERC) will convene to discuss the agenda set by the COREPER and, if deemed appropriate, to approve the necessary legislative instruments to implement the measures on which there is sufficient agreement.

2. Background Information

The exercise begins with the meeting of the Council's Working Group, continues with the Committee of Permanent Representatives (COREPER) and ends with the Council meeting. The time limits may show that it will not be possible to achieve agreement, or sufficient progress on all of the issues that are indicated. In this respect, the Presidency, in close co-ordination with the Commission, should be careful to set the right priorities.

The **background information** of this exercise is contained in the background documents included in this dossier (section 8), which are the following:

- *Bulletin of the European Union, 12-2005 on the proposal.*
- *European Commission's report: "Origin Marking: State Of Play And Orientations For The Way Forward", July 3, 2006.*
- *Monitoring of the decision-making process between institutions (more on http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=193690)*
- *U.S. Commercial Service Report on the Proposal.*
- *Brief introduction of the "Made in..." for Transparency campaign (more on <http://www.made-in-for-transparency.eu/en/index.html>)*

The **basic document and regulations** for the negotiation are included in section 9 of this dossier:

- European Commission's proposal COM(2005) 661 final for a Council Regulation on the indication of the country of origin of certain products imported from third countries
- Arts. 131-134 (Common Commercial Policy) of the Treaty establishing the European Community (TCE)
- Council's Rules of Procedure, 22 March 2004
- Amendment Council's Rules of Procedure, 11 October 2004
- COREPER: Tasks and Working Method
- Example of Provisional Agenda for COREPER (part 2)
- Example of Provisional Agenda for Council

3. The Roles in the Exercise

Each participant will be assigned a role in one delegation. Each delegation has three members, each of them to lead in each of the three meetings (Working Group, Committee of Permanent Representatives (COREPER) and the General Affairs and External Relations Council of the EU (see section 4))

The Presidency

Portugal is the country holding the EU Council Presidency between July and December 2007. The Presidency will be represented by Portugal's national expert in the Working Group meeting, the Permanent Representative in the COREPER, and by Portugal's Minister for Foreign Affairs in the Council.

The President's task is to guide the session according to the Council's rules of procedure, to set the agenda, to determine the procedure to be used during the session and to decide on negotiation objectives (i.e. global compromises, partial decision, postponement of the decision, package deals) etc. In fulfilling his/her duties the Presidency should work closely with its "home" delegation.

The Commission

The Commission delegation will be composed by the Commissioner for Trade, the Director General of Directorate-General (DG) Trade and an expert from DG Trade.

The Commission takes the initiative in the exercise by submitting a draft proposal. It also promotes the decision-making process by balancing the different national positions in order to find a compromise during the negotiation and provides expertise at the request of the Member States or the Presidency.

- ***DG Trade expert*** (in Working Group) / ***Director General of DG Trade*** (in COREPER)/ ***Commissioner for Trade*** (in Council)

S/he is the Head of the Commission Delegation and speaks on its behalf during the Working Group/COREPER/Council Meeting. S/he is responsible for the Commission's Strategy as laid down in the proposal and the level of ambition to be pursued during the negotiation and maintains contact with the Member States on the political level.

National Delegations

There are 27 national delegations. Each national delegation is represented by its national expert (in the Working Group), Permanent Representative (in the COREPER), and by the national Minister for Foreign Affairs (in the Council). An exception to this is the delegation of the country holding the Presidency, Portugal. This Member State is represented by another national expert in the Working Group, its Deputy Permanent Representative in the COREPER and by its Permanent Representative in the Council.

The National Delegations respond to the Commission's proposal by preparing their national positions, which include reactions to the Commission's initiative, proposed amendments, coalition-building with other delegations and/or the Commission.

- **National Expert/Permanent Representative/Minister for Foreign Affairs (or National Expert/Deputy Permanent Representative/Permanent Representative in the case of Portugal)**

S/he is head and the speaker of the national delegation and is responsible for the coordination of different views inside his/her government enabling a coherent national position to be taken, as well as for the elaboration of the general strategy of the delegation. S/he should get in contact with his/her National Expert/Permanent Representative/Ministerial colleagues from other delegations and with the Commission.

4. Procedural Matters

Meeting Schedule

There will be three meetings: one meeting of the Working Group (2h.), one meeting of the Committee of Permanent Representatives (COREPER) (2h.), and one meeting of the General Affairs and External Relations Council (GAERC) of the EU (2h.).

The meeting of the Working Group is officially scheduled on November 27 at 18:00 until 20:00.

The meeting of the COREPER is officially scheduled on November 28 at 18:00 until 20:00.

The meeting of the GAERC is officially scheduled on November 29 at 18:00 until 20:00.

The Presidency/Delegates may organise supplementary meetings if they wish, or deem necessary.

Informal meetings (bilateral or multilateral) may take place on whatever basis you choose.

Who gets to the meetings?

To the Working Group meeting: The National Experts, Portugal's national expert holding the Presidency, the Commission's DG Trade expert.

To the COREPER meeting: the same as above plus the Permanent Representatives, Portugal's Deputy Permanent Representative for the Presidency (assisted by the national expert that chaired the WG meeting), and the Director General for the Commission.

To the Council meeting: Permanent Representatives and Ministers (the Permanent Representative in the case of Portugal), the Minister of Portugal for the Presidency (assisted by the Deputy Permanent Representative who represented Portugal in the COREPER meeting), and the Director General and the Commissioner for Trade for the Commission.

The national delegations will be represented by their National Experts at the Working Group, the Permanent Representatives (Deputy Permanent Representative in the case of Portugal) at the COREPER, and by their Ministers for Foreign Affairs (or the Permanent Representative for Portugal) at the Council of the EU.

Meeting's Procedure

- a) The procedure of the meeting will use as general guidelines the Council's Rules of Procedure of 22 March 2004 (enclosed in section 9);
- b) The objective of each meeting are:
 - a. Working Group: Set the agenda for the COREPER meeting by dividing the main issues of negotiation of the proposal in I items (agreed) and II items (non-agreed) (for example of COREPER agenda see section 9 - *Negotiation Documents*).
 - b. COREPER: After discussion of the agenda set by the Working Group, it should set the agenda for the Council meeting by dividing the main issues of the

negotiation in A items (agreed) and B items (non-agreed) (for example of Council's agenda see section 9 - *Negotiation Documents*).

- c. Council: After discussion of the agenda set by the COREPER, it should decide on the proposal presented by the Commission. It can approve it, reject it or amend it (see next section *voting and procedure*).
- c) The delegates are seated according to the seating plan (section 7);
- d) The President tasks are to guide the session according to the Council's rules of procedure, to set the agenda, to determine the procedure to be used during the session and to decide on negotiation objectives;
- e) The President will open proceedings by welcoming the delegates to the meeting, and will then request the Commission to introduce and explain its proposal. The President should then clearly indicate which particular point is to be discussed, and each delegate in turn should respond. The normal procedure is that the delegate on the President's left begins;
- f) After the initial *tour de table*, an open discussion should ensue, during which national delegations may put questions to other delegates or the Commission, and suggest amendments to the proposal on the table. At appropriate points in the debate, the President should try to sum up what has been said, and identify points of agreement or disagreement.
- g) There may be adjournments for informal discussion. These should be timed and in no case too long (MAXIMUM 10 minutes);
- h) The pause can be used for informal discussions, between delegations, the Commission and the Presidency;
- i) OCCASSIONALLY the Presidency may want bilateral "confessionals" with individual national delegations, but please note that this can take very long time. In this case the Presidency and the delegation of the country holding the Presidency should divide the other delegations between them for a very short conversation.

Voting and procedure

- a) According to art. 133.4 TCE any legal instrument in Common Commercial Policy should be approved by qualified majority (QMV).
- b) If the Council wants to amend the proposal against the European Commission opinion, it must do it by unanimity.
- c) The Commission can at any moment modify or withdraw its proposal.
- d) According to the Treaty of Nice the **voting weighting** and the **qualified majority** is as follows:

| Qualified Majority Voting (QMV) | |
|--|--------------|
| Member States | Votes |
| Germany, United Kingdom, France and Italy | 29 |
| Spain and Poland | 27 |
| Romania | 14 |
| Netherlands | 13 |
| Greece, Czech Republic, Belgium, Hungary and Portugal | 12 |
| Sweden, Austria and Bulgaria | 10 |
| Slovakia, Denmark, Finland, Ireland and Lithuania | 7 |
| Latvia, Slovenia, Estonia, Cyprus and Luxembourg | 4 |
| Malta | 3 |
| QMV = 255 | 345 |
| Demographic verification: 62 % of total EU population | |
| Blocking Min.= 91 | |

5. Language Skills

In this short report I will be concentrating on linguistic, paralinguistic and aspects of communication skills, which were striking to me as a linguist observer.

The uses and abuses of English in Negotiation Simulations

The most interesting aspect of the whole process was to notice how the students have developed their own forms of Euro English. This in no way is to be seen as a criticism, as it was refreshing to witness that communication did not break down even if language did at times. The students were able to switch from one language to another and to add in words from 'the other' language if the target languages words were not immediately to hand.

This reflects real life. We should of course tolerate this, as a purist attitude to language teaching/training would lead to communication breakdown. Even mistakes in English on written amendments were tolerated, and even by native speakers, to allow for communication and true comprehension to come through, rather than students themselves adopting a purist approach to errors in the language, which they could have done.

Formal and informal language

Students seem unaware at times of the need to be sensitive to formal/informal uses of the languages. Whilst this did not cause friction here, this is an area, which could perhaps have been better. Openings and conclusions were at times not formal enough to give weight to the messages students were trying to pass on or to create the correct formal atmospheres, which would be needed at this level in reality. Informal language can be interpreted as rude or unprofessional.

Examples:

'Alright, please' as an attention phrase at the beginning of the negotiations.

'Dear Ministers' is a direct translation from French, but does not sound too good in English.

Paralinguistics

It is interesting to note the mixture of paralinguistic features of the negotiations such as eye contact, touching, use of pauses and use of gestures. Some of these reflect cultural background of course; whilst others reflect aggressive or passive natures. Banging the country name cards appeared threatening to some and gave an overall instant impression to us all of what those people were like. Putting one's hand on a shoulder could obviously be seen to be having a soothing effect on an irritated counterpart. Interesting to note the feminine touch too! Perhaps the signal here is that women use different techniques to get their own way.

Skills and techniques

Some areas of improvement here could be

1. Some of the students found it difficult to speak clearly and with force.
2. Speed of delivery of language. Sometimes too fast to be effective and understood.
3. The necessity not to read prepared speeches from pieces of paper. Some students did, and the message was lost.
4. The *power of language*. Whilst some students used the languages to their greatest effect, others still need to work in order to use words and linguistic techniques to make their language more powerful and more convincing. This could go from the correct and effective use of grammar features and vocabulary to a clearer way of organizing thought through language (or vice versa).
5. It would seem necessary to teach the students **transition or linking words and phrases**. It would help to train students with lists of **functions**:

'We would like to thank....for their interesting remarks, but....'

'I would like to mentionas a priority'

'Please ask us not to reconcile what is not reconcilable'

This type of language was only used by the best students (linguistically speaking).
6. Sometimes the right question put the right way would have been effective. Some students need practice in putting effective questions.

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Bruges February 2002

6. Guidelines for Position Building

1. THE COMMISSION'S PROPOSAL

- a) What are the main features of the text (i.e. What does it provide for?)
- b) What may lie behind it?
- c) Are any other issues involved?

2. IMPLICATIONS FOR YOUR DELEGATION

What are the implications for

- a) your government?
- b) your national industries?

3. NEGOTIATING OBJECTIVES

- a) What is your preferred outcome?
- b) What **MUST** you achieve?
- c) What are your principle objectives?
- d) What are your secondary objectives?
- e) What may be negotiable?

4. POSITIONS OF OTHER PARTICIPANTS

- a) Which positions are already known?
- b) What information do you need to supplement what you already have?
- c) Which delegation(s) would you expect to be most influential?

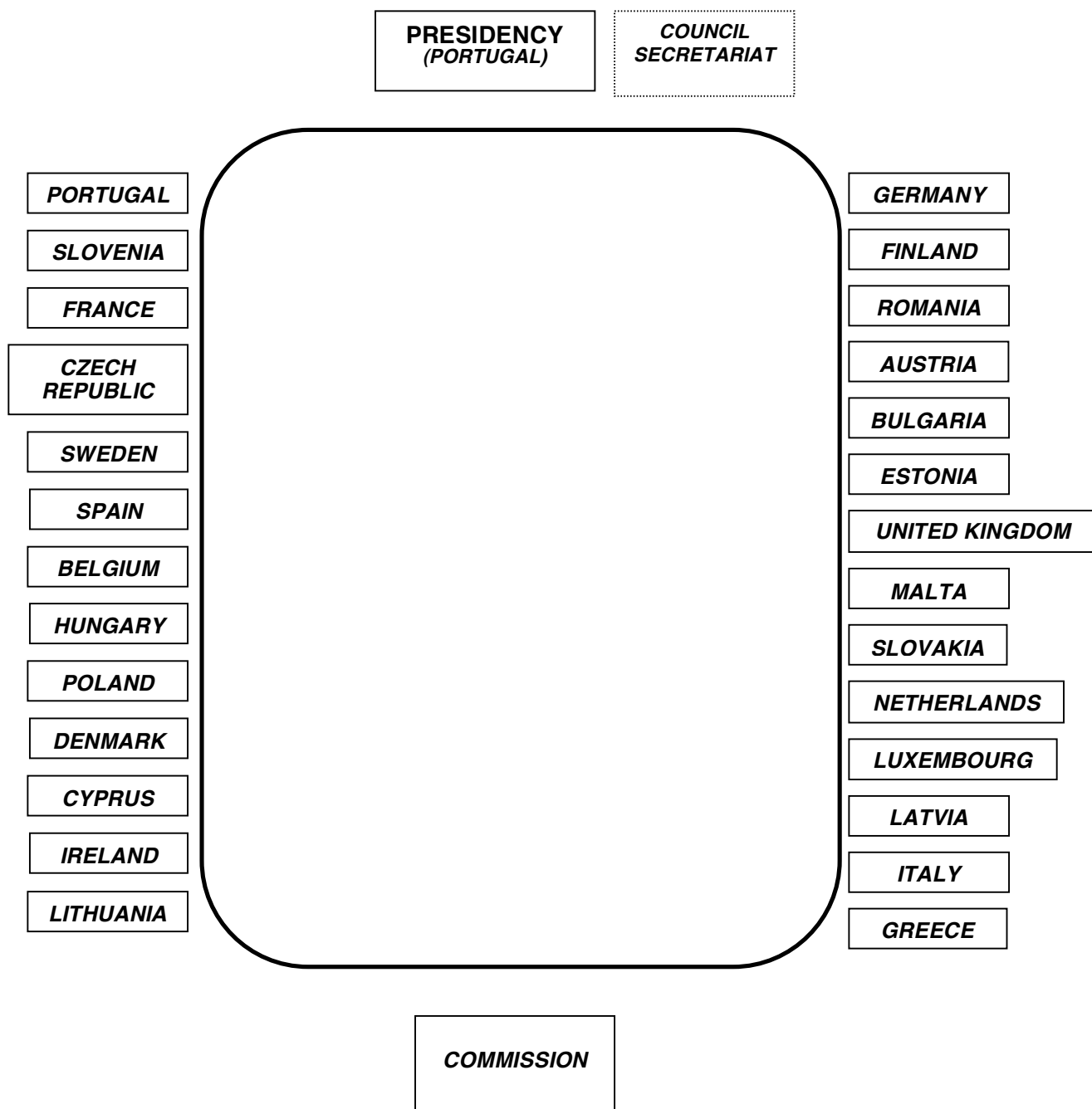
5. LINE TO TAKE AT THE MEETING

- a) What is the basic position you want to explain?
- b) Tactically, how do you intend to achieve your objectives?
- c) Can you establish links with other delegations?
- d) If your position is unlikely to be central to the discussion, how could you help the process of negotiation?
- e) How much movement do you expect to take place at the forthcoming meeting?
- f) What plans do you have for subsequent meetings?

6. OTHER FACTORS

- a) Is this dossier linked to any other current dossiers?
- b) Are there any legal implications of the proposal?
- c) Are there any financial implications of the proposal?
- d) What groups could you consult to gain more information?

7. Seating Plan 2nd Semester 2007



8. Background Documents

Bulletin of the European Union, 12-2005 on the proposal.

European Commission's report: "Origin Marking: State Of Play And Orientations For The Way Forward", July 3, 2006.

Monitoring of the decision-making process between institutions (more on http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=193690)

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9. Negotiation Documents

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Arts. 131-134 (Common Commercial Policy) Treaty establishing the European Community (TCE)

Council's Rules of Procedure, 22 March 2004

Amendment Council's Rules of Procedure, 11 October 2004

COREPER: Tasks and Working Method

Example of Provisional Agenda for COREPER (part 2)

Example of Provisional Agenda for Council