



MW Berchtesgadener Land

Mandatory Origin Labelling

An international perspective



Author: Alexander Anton, EDA secretary general

Since 2016, we have witnessed the adoption and implementation of measures requiring the mandatory indication of origin for milk, milk products and meat in eight European Member States. The decrees have been notified by national governments under the auspices of the EU Food Information to Consumer Regulation (FIR) and then, questionably validated as two-years experiments by the EU Commission.

Since then, the discussions in Europe are mounting over the consistency of the justifications upon the new national mandatory requirements under the EU rules, and the potential disruption of such non-harmonised rules on the fate of the Single Market for foodstuffs, in the European Union.

In the meantime, the international community has been observing and commenting on the new compulsory EU origin labelling schemes within the World Trade Organization (WTO) arena.

After the nightmare of the international trade dispute between the US vs Canada and Mexico, the Technical Barriers to Trade Committee (TBT) at the WTO was surely not expecting yet another origin case to be flagged up by WTO delegations.

Back in 2009, the US enforced the obligation to inform consumers at the retail level of the country of origin of beef and pork imported from Canada and Mexico. After animated discussions within the TBT forum, the case ended up in a trade dispute, which, after years of legal debate, resulted in a WTO Appellate body ruling.

The Supreme International Trade Court considered that the least costly way of complying with the US measure was to rely exclusively on domestic livestock. This, according to the WTO judges, created de facto an incentive for US producers to use exclusively domestic livestock and thus causing a detrimental impact on the competitive

opportunities of imported cattle and hogs from the two neighboring countries.

Then in 2015, the WTO ruling authorized Canada and Mexico to charge the US for one billion dollars in retaliatory tariffs for imposing mandatory origin labelling (MoL) discriminating rules.

Since October 2016, immediately after the publication of the first compulsory origin labelling scheme (the French decree n° 2016-1137 of 19 August 2016) a new origin labelling Specific Trade Concern appeared on the agenda of the TBT Committee.

The origin labelling trade concern related to multiple EU national compulsory schemes, initially raised by the US and New Zealand, has been further picked up in the following Committee meetings, by an increasing number of WTO Members including Brazil, Indonesia, Mexico, Canada, Uruguay and Australia.

The major complaints to the European Union from the other WTO delegations, sounded as an echo from a recent past. As for the US in 2009, the delegations' concerns regarded the transparency in the notification process of the national EU MoL schemes vis-à-vis of WTO Members and the fact the new country of origin labelling requirements could act as a non-tariff barrier to international trade.

Nowadays, while the fate of international trade concerns on EU national mandatory rules on origin is still unclear, it seems legitimate to wonder whether the European compulsory schemes on origin will suffer the same destiny as the 2009 US measure on mandatory rules of origin? Will these national divergent MoL measures be challenged at the WTO and therefore entail another disruptive international trade dispute?

In any case, the damage done at EU Single Market level is unprecedented – milk and dairy intra-EU trade has suffered. Not only do we live a troubled time in the international trade arena, we also suffer damaging trade disruption within the European Union.