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Submission of the Fédération du e-commerce et de la vente à distance (FEVAD) on the Draft law proposal aimed at reducing the environmental impact of the textile industry Notification No. 2025/0336/FR (Article 1 bis AA)

In alignment with its commitment to sustainable and responsible digital commerce, FEVAD recognizes the importance of reducing the environmental impact of the textile industry and supports the broader objectives pursued by the French legislator. FEVAD is also strongly convinced of the need for clear, consistent, and harmonized regulations that effectively protect consumers while preserving a competitive and innovative digital market.

That said, FEVAD wishes to draw attention to certain provisions of the proposed law that, as currently drafted, raise significant concerns regarding their compatibility with EU law. In this context, FEVAD fully endorses the TRIS contribution submitted by ECommerce Europe concerning Article 2. As an active an founding member of ECommerce Europe, FEVAD shares and relays this analysis, which highlights the potential negative effects of the draft law on the European Union's harmonization objectives.

FEVAD also wishes to emphasize, as developed in the present submission, that **Article 1 bis AA** raises similar concerns as it appears to conflict with the harmonized framework of Union legislation, as well as with the fundamental principles of the internal market, including the free movement of goods and services.

I. Article 1 bis AA: Mandatory indication of the origin of textiles sold online

Article 1 bis AA requires that the origin of any garment or textile sold online be clearly identifiable to the consumer, with the origin indication displayed in visible and legible characters of the same size as the price and placed next to it.

First, this obligation conflicts with Regulation (EU) No 1007/2011 on textile fibre names and related labelling and marking, which exhaustively harmonizes the mandatory information that must be provided on textiles. The Regulation deliberately refrains from imposing mandatory origin labelling, leaving this information voluntary. Recital 26 makes this legislative choice explicit: while acknowledging possible consumer interest in origin labelling, it entrusts the Commission with the task of assessing, through consultation and impact analysis, whether and how additional labelling requirements – including rules on origin – should be introduced at Union level. This is reinforced by Article 24, which expressly mandates the Commission to report to the Parliament and the Council on the possible introduction of new harmonized labelling requirements, including those relating to origin. Together, these provisions confirm that any extension of labelling obligations can only occur through Union-wide measures.

The CJEU has therefore consistently held that Member States may not unilaterally introduce additional labelling requirements in harmonized fields[1]. Applying this principle here, the French measure would contravene EU law by creating a national obligation precisely where the Union legislator has deliberately refrained from acting. This interpretation is corroborated by the Commission's own stance in a previous TRIS procedure: in its comments of 12 May 2025 on the French environmental labelling decree, which established a framework governing the optional display of the environmental

[1] UNIC and Uni.co.pel, Case C-95/14, Court of Justice of the European Union, 16 July 2015: the Court annulled an Italian law imposing compulsory origin labelling on leather products, finding that it encroached upon an area already harmonized at EU level.

cost of clothing, it explicitly stressed that the scheme "*should remain completely voluntary*" in order to avoid potential barriers to the internal market[2].

This conclusion is further supported by the Commission's announced legislative initiative, the forthcoming *revision of the Textile Labelling Regulation*, which is expected to streamline label requirements on composition and origin of textile products made available in the EU[3]. Taken together, these elements confirm that questions of origin labelling fall exclusively within the scope of EU harmonization and are already the subject of an ongoing legislative process, leaving no room for unilateral national action.

Moreover, this obligation constitutes a clear barrier to the free movement of goods and services within the meaning of Articles 34-35 and 56 TFEU. Articles 34 and 35 TFEU prohibit quantitative restrictions on imports and exports, as well as measures having equivalent effects. According to CJEU case law, such measures include any rules "*capable of hindering, directly or indirectly, actually or potentially, access to the market of a Member State of products originating in other Member States, even if it has neither the object nor the effect of treating goods coming from other Member States less favourably*"[4]. By imposing a French-specific requirement to indicate the country of origin in a particular form or prominence, operators selling textiles cross-border would face additional costs, administrative burdens, and operational complexity to comply with France-specific display rules. By applying only to e-commerce, the measure amplifies these obstacles as it introduces a discrimination between distribution channels, creating a competitive advantage for French physical retailers while disproportionately burdening online operators, especially those involved in cross-border trade.

The CJEU has confirmed, notably in the case "Origin Marking", that national rules introducing additional labelling requirements amount to restrictions on the marketing of products lawfully placed on the market elsewhere in the Union[5]. In response to this jurisprudence, the French authorities repealed the obligation to indicate the origin of certain textile and clothing products, originally established by the decree of 29 August 1979 (as amended in 1983), through decree n° 86-985 of 21 August 1986[6]. Reflecting this principle once again, the Commission brought an action (still ongoing) before the Court on 17 July 2025 against France concerning its national labelling requirements concerning waste sorting instructions (Triman logo), which oblige operators to adapt their products solely to the French market, thus undermining the principle of free movement of goods[7].

Separately, the measure restricts the freedom to provide services under Article 56 TFEU and Article 3(2) of the E-Commerce Directive (Directive 2000/31) by imposing a French-specific obligation on online platforms affecting all sellers offering textiles in France. Cross-border sellers are thereby compelled to adapt their digital interfaces specifically for the French market, incurring additional costs and operational complexity. By singling out a single distribution channel, the measure confers an

[2] TRIS notification 2025/0087/FR ; available at: https://technical-regulation-information-system.ec.europa.eu/en/notification/26667

[3] European Commission, *Textile labelling rules (revision)*, Initiative 13872, available at: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13872-Textile-labelling-rules-revision-_en

[4] *CDIL*, Case C-96/22, Court of Justice of the European Union, Judgment of 21 December 2023, para. 33.

[5] *Origin Marking (Commission v United Kingdom)* Case 207/83, Court of Justice of the European Union, 25 April 1985: the Court found that a national regulation requiring imported products to bear an indication of origin hindered their free circulation, even when applied equally to domestic and imported products, because it increased production costs and disadvantaged trade.
UNIC and Uni.co.pel, Case C-95/14, Court of Justice of the European Union, 16 July 2015 : in this case, the Court struck down an Italian law on compulsory origin labelling of leather products.

[6] Jean-Louis Masson, Senator, "Mention du lieu de fabrication des vêtements," Written Question No. 10636, *Official Journal of the Senate* (22 October 2009), p. 2454, available at: https://www.senat.fr/questions/base/2009/qSEQ091010636.html ; This question asked the French Government about the possibility of reintroducing the requirement to indicate the place of manufacture of clothing, which had been removed by Decree No. 86-985 of 21 August 1986.

[7] European Commission, *February infringements package: key decisions*, Press Release INF/23/525, 2 May 2023, available at: https://ec.europa.eu/commission/presscorner/detail/en/inf_23_525 : "*In this context, the imposition of national-specific labelling requirements risks undermining the principle of free movement of goods*"

artificial advantage on physical retailers, constituting an unjustified and disproportionate restriction, contrary to the principles enshrined in EU law.

By imposing a national origin-labelling obligation in a field where the EU legislator has deliberately left such labelling voluntary, the French measure therefore constitutes a clear restriction on the free movement of both goods and services.

Finally, the obligation to indicate the origin of textiles exclusively on online platforms also raises proportionality concerns. While consumer information and environmental protection are legitimate objectives under Articles 36 and 52 TFEU, they must be pursued through means that are appropriate and not excessively restrictive. First, the direct link between the country of origin and environmental impact is not self-evident. While it is true that transport increases a garment's environmental impact, this phase represents only a fraction of the total lifecycle emissions of a garment. For instance, data cited by Minister Agnès Pannier-Runacher indicate that delivery accounts for merely 9 % of the total environmental impact of a cotton sweater produced in China for fast fashion, the remaining 91 % stemming from production, processing, and disposal. Emphasizing origin as the main environmental indicator is therefore misleading and risks discriminating against certain global players based on origin rather than production practices[8].

Second, targeting only e-commerce – which accounts for 23% of the total clothing market in France – while leaving physical stores – which account for 77% of the market – unaffected, imposes a disproportionate regulatory burden on a limited segment of operators[9]. Exempting the vast majority of in-store sales undermines the objective of providing meaningful consumer information about product origin, particularly as most textiles sold in stores are also manufactured abroad.

Lastly, EU-harmonized initiatives offer less restrictive alternatives. The EU Ecolabel for textiles[10] and the Digital Product Passport as part of the Ecodesign for Sustainable Products Regulation (ESPR)[11] are intended to provide consumers with meaningful, comparable information without fragmenting the internal market. In contrast, mandatory national origin labelling would create additional complexity and risk consumer confusion, given that the concept of "origin" in textiles is inherently difficult to define due to multiple production stages across different countries.

Accordingly, Article 1 bis AA conflicts both with EU secondary legislation and with the fundamental freedoms enshrined in the Treaties.

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[8] French Senate, *Séance du 2 juin 2025*, available at: https://www.senat.fr/seances/s202506/s20250602/s20250602011.html: *"According to data from Ecobalyse, delivery accounts for only 9% of the total environmental impact of a cotton sweater produced in China as part of the fast fashion industry. It is important for consumers to be able to make informed choices about environmental impact. It would be counterproductive to suggest that the main impact lies in transportation, without mentioning the remaining 91%".*

[9] Institut Français de la Mode (IFM), *Consumption of Clothing and Textile Articles – December 2024,* available at : https://www.ifmparis.fr/fr/actualites/consommation-darticles-dhabillement-et-textile-dec-2024

[10] European Commission, *Commission Decision of 5 June 2014 establishing the ecological criteria for the award of the EU Ecolabel for textile products,* available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014D0350-20201201

[11] European Commission, *EU's Digital Product Passport: Advancing transparency and sustainability*, Press Release, 27 September 2024, available at: https://data.europa.eu/en/news-events/news/eus-digital-product-passport-advancing-transparency-and-sustainability