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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,  
21 May 2008

**COMMISSION STAFF WORKING DOCUMENT**

**Key issues  
concerning the simplification of 8 Directives on measuring instruments**

**Stakeholder consultation**

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## INTRODUCTION

Eight “old approach” directives regulate measuring instruments used for tasks requiring legal metrological control under the framework directive 71/316/EEC<sup>1</sup>. Sectors concerned are *Cold Water Meters for Non-Clean Water, Alcohol Meters and Alcohol Tables, Medium and Above-Medium Accuracy Weights, Tyre Pressure Gauges for Motor Vehicles, Standard Mass of Grain* and *Calibration of Ship Tanks*. Annex 1 briefly describes each of these directives and, where relevant, mentions the corresponding international standards.

All these Directives share the common feature of prescribing detailed technical specifications. Concerns have been expressed by various stakeholders that such a regulatory approach generates complex rules which are not easily adaptable to technological progress and therefore risk hindering innovation. Furthermore, the coexistence of harmonised rules and national rules creates confusion for economic operators, can make market surveillance difficult and in some instances even duplicates existing international standards. The Commission Legislative and Work Programme 2008<sup>2</sup> has indicated the Commission’s intention to “extend the scope of Directive 2004/22/EC on measuring instruments whilst repealing the 8 “old approach” metrology Directives” with a view “to provide a coherent legal framework for legal metrology and the extension of the scope of the Directive being the legal prerequisite for the repeal of the “old approach” Directives.”

The simplification of existing legislation may take various forms, including the repeal of existing texts, the codification of existing legislation into a new legal instrument or the change in the pursued regulatory approach. Decisions on the exact form that simplification takes will be done on the basis of Better Regulation principles. This will be based also upon reasons which must become apparent from this public consultation.

This document first outlines the options available according to the Commission services and indicates the criteria by means of which the options could be assessed. At the end of each chapter in this document, a question of particular importance is put to stakeholders.

The aim of the consultation is take stakeholders’ views in the widest sense: industry, small and medium sized enterprises, trade unions, consumers, governments and interested individuals. Stakeholders are invited to answer the questions as they consider relevant. All reactions will be published on the website of DG Enterprise and Industry, unless requested otherwise. Those sending contributions will be notified of the publication of the report on the public consultation.

The publication of the report on the public consultation is foreseen for mid-September and the Commission is expected to adopt its proposal before the end of 2008.

This document has been prepared by the Commission services for consultation purposes. It does not in any way prejudge, or constitute the announcement of, any position on the part of the Commission concerning the issues covered.

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<sup>1</sup> Council Directive 71/316/EEC of 26 July 1971 on the approximation of the laws of the Member States relating to common provisions for both measuring instruments and methods of metrological control, OJ L 202, 6/9/1971, p1–13

<sup>2</sup> COM(2007) 640 final, 23/10/2007, p32

## 1. DEFINITION OF THE ISSUE AND POSSIBLE OPTIONS

Three main options have been identified by the Commission services:

**Option 1:** Maintaining the current regulatory framework unchanged. This option will act as the baseline for assessing the impacts of adopting either Option 2 or 3.

**Option 2:** Repeal existing Directives without proposing any new Community legislative instrument to replace them. Under this option, the free movement of measuring instruments within the Internal Market would implicitly rely on the Mutual Recognition Principle and horizontal legislation framing its correct functioning. Rather than national regulation Member States could rely on the voluntary application of European standards. For the updating and development of such standards the Commission could give a mandate. Member States wanting to keep national regulation would need to base their laws on international standards. For most instruments international standards exist (see Annex 1) Under WTO/TBT obligations, international standards would be the basis for national regulation as well as for European standards.

**Option 3:** Replacing the current Directives by new harmonising legislation added into the Measuring Instruments Directive 2004/22/EC<sup>3</sup>, the latter already providing a legal framework for certain measuring instruments under the New Approach. This option implies the inclusion of these new sectors into this New Approach Directive. It does not allow any national rules, although Member States remain free to choose the tasks for which they want to prescribe legal metrological control. For these tasks they may only allow instruments conformity assessed on the essential requirements in the directive to be used on their territory.

In Annex 2, the Commission has inventoried together with national experts the views of Member States as regards the need to maintain the current legislation. This approach does not prejudge any of the above mentioned options. The views of Member States need not yet be fixed and views might still change. From the inventory, as it stands, a majority of the 21 Member States have given their opinion in favour of option 2 of “the repeal of existing directives”.

It may also be that other options exist than the three mentioned above. Stakeholders are invited to present any other alternatives that they would consider desirable.

Stakeholders are requested to answer the following question:

1. What are their views on each of the three options in the light of the issues mentioned in the following chapters? Stakeholders are invited to present any other options that they would deem desirable.

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<sup>3</sup> Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments, OJ L135 30/04/2004, p1

## **2. TECHNOLOGICAL PROGRESS**

Technological progress is a characteristic of most industrial goods and measuring instruments are no exception. In the 1970s instruments were often mechanical and this is often the level of progress taken into account of in the existing directives. Electronic elements have been progressively added and there is currently a trend towards digitalisation.

Where the technologies applied for these instruments are mature and do not require technological change, i.e. weights cannot be digitalised, and reliance on international standards could considerably optimize profitability at the lowest prices to the users. European standards based on international standards give market transparency, and are more flexible than legislation, should adaptation to technological change be required.

Each of the options outlined above could be more or less beneficial to incorporating technological progress. The Commission is seeking stakeholders' views on the sensitivity of each sector to technological progress and the option most preferred from the angle of adapting to technical progress.

Stakeholders are requested to answer the following question:

2. What is the rhythm of technological progress and how would it be best served by each of the options?

## **3. IMPACT ASSESSMENT**

The Commission would like to receive as detailed as possible information on the numbers and types of instruments that are currently produced under the directives. Also it would be useful to get information about production, consumption, imports and exports of instruments falling under the directives as well as employment and estimates of the margins achieved.

An important element is to understand what the effects could be of the various options on the sector in terms of the expected economic impacts.

Stakeholders are requested to answer the following question:

3. What are the current economic impacts of the sectors and how would they change in respect of the options?

## **4. ECONOMIES OF SCALE**

Economies of scale can be achieved by opening up markets. A firm can benefit from selling the same product in different markets without requiring additional operations such as complying with differing regulations and repeating conformity assessment.

Stakeholders are requested to inform the Commission on how best economies of scale could be achieved under the various options and whether there are perceived limitations.

Stakeholders are requested to answer the following question:

4. Are there currently economies of scale and what are the expected effects of the various options on economies of scale?

## **5. SMALL AND MEDIUM SIZED ENTERPRISES**

Small and medium sized enterprises could be important players in the various sectors. The Commission is seeking information on the volume of production and employment by size of firms.

Furthermore, the various options may have different effects as regards the future development of small and medium sized enterprises. In combination with the previous heading, there may be increased scope for developing market niches, i.e. small and medium sized enterprises that specialise in a small segment of the market in which they achieve large economies of scale on the European or world market.

There could also be unnecessary administrative burdens specific to sectors that particularly affect small and medium sized enterprises. In order to properly assess administrative burdens for small and medium sized enterprises, it would be necessary to know whether small and medium sized enterprises are currently producing to national specifications or to harmonised specifications. From this perspective, they should indicate what option is preferable from the point of view of administrative burdens and for what reasons.

Stakeholders are requested to answer the following question:

5. What is the current situation of small and medium sized enterprises and what is to be expected under the various options, also as regards the possibility to develop market niches and administrative burdens?

## **6. EFFECTS ON CONSUMERS AND EMPLOYEES**

Consumers may be the users of the instruments or may be directly subject to the measurement results. Similarly this may apply to employees. It would be useful to know what consumers' and employees' needs are. The various options could change the situation of consumers and some may be more beneficial than others.

Stakeholders are requested to answer the following question:

6. What the effects are of the various options on needs of consumers and employees?

## **7. ENVIRONMENTAL EFFECTS**

There could also be environmental effects related to the results of measurement or due to the use of the instruments. It would be useful to know what such effects are as well as the changes that the various options could imply.

Stakeholders are requested to answer the following question:

7. What are the environmental effects of the uses and how could they be influenced by the various options?

## 8. GOVERNMENT NEEDS

Governments might have specific needs in areas such as taxation, public health and safety for tasks which require legal metrological control by means of measurements performed by the instruments regulated. It would be helpful to have these needs made explicit as well as the effects of the options, notably whether government can carry out tasks equally well in the absence of harmonised EU law.

An important aspect of government needs would also seem to be the costs and effectiveness of market surveillance.

Stakeholders are requested to answer the following question:

8. What are the needs of government and what are the effects of the options, notably also as regards market surveillance?

## 9. STAKEHOLDER CONSULTATION

This document contains options and key issues. However, it is not excluded that relevant elements have been overlooked or insufficiently highlighted. It is, therefore, the intention of the Commission services to encourage stakeholders to bring up points that they consider relevant.

Stakeholders are invited

9. To provide comments on whether all issues and alternatives concerning the Directives concerned by the simplification have been highlighted in the above text.

10. And to indicate the overall costs and benefits that they expect to have as a result of any of alternative option.

**Deadline for comments is 15 July 2008.**

Views of stakeholders may be sent to:

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## **ANNEX 1: OVERVIEW OF DIRECTIVES THAT ARE CONCERNED**

### **Cold Water Meters for Non-Clean Water**

Directive 75/33/EEC on cold-water meters<sup>4</sup> has been partially replaced by the Measuring Instruments Directive 2004/22/EC<sup>5</sup>, in particular Annex M1-001, which covers water meters intended for the measurement of volumes of clean, cold or heated water in residential, commercial and light industrial use.

Non-clean waters relates to measurement of non-potable waters such as water abstractions for water treatment, process cooling or irrigation.

There is no international standard available. At European level there is an EN standard for meters for irrigation water<sup>6</sup>.

### **Alcohol Meters and Alcohol Tables**

Directive 76/765/EEC on alcohol meters<sup>7</sup> defines parameters for alcohol meters (which measure the alcoholic strength by mass or volume of water/ethanol mixtures) and for hydrometers (which measure the density of water/ethanol mixtures). The associated Directive 76/766/EEC<sup>8</sup> provides the direction on conversion of readings from alcohol meters to alcohol strength figures using international (OIML) 'alcohol tables'. The alcohol tables are mandatory.

The correct measurement of alcoholic strength is important, given that national alcohol excise duties in the EU15 countries amounted to €25 billion in 2001.<sup>9</sup>

For alcohol meters the international standard is OIML [recommendation 44](#) of 1985.

For alcohol tables the international standard is OIML [recommendation 22](#) of 1975.

### **Medium and Above Medium Accuracy Weights**

Directive 71/317 covers medium accuracy weights<sup>10</sup> with: the following nominal values: - rectangular bar weights of 5, 10, 20 and 50 kg; - cylindrical weights of 1, 2, 5, 10, 20, 50, 100, 200 and 500 g and 1, 2, 5 and 10 kg.

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<sup>4</sup> Council Directive 75/33/EEC of 17 December 1974 on the approximation of the laws of the Member States relating to cold-water meters, OJ L014, 20/01/1975, p1.

<sup>5</sup> Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments, OJ L135 30/04/2004, p1.

<sup>6</sup> EN 14268:2005 EN, see <http://www.cen.eu/esearch/extendedsearch.aspx>

<sup>7</sup> Council Directive 76/765/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to alcoholometers and alcohol hydrometers, OJ L262, 27/09/1976, p143.

<sup>8</sup> Council Directive 76/765/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to alcohol tables, OJ L262, 27/09/1976, p149 amended to technical progress by Council Directive 82/624/EEC of 1 July 1982, OJ L252 27/08/82, p8.

<sup>9</sup> Anderson P, Baumberg B, "Alcohol in Europe", Institute of Alcohol Studies, UK June 2006, see: [http://ec.europa.eu/health-eu/news\\_alcoholineurope\\_en.htm](http://ec.europa.eu/health-eu/news_alcoholineurope_en.htm)

Directive 74/148<sup>11</sup> concerns. Weights of above-medium accuracy the nominal value of which is equal to 1 mg or more and less than or equal to 50 kg. This Directive does not apply to metric carat weights or to special weights covered by other directives.

These Directives play a key role in the calibration of weights used in trade and commerce.

The international standard is OIML [recommendation 111-1](#) and [111-2](#), both of 2004.

### **Tyre Pressure Gauges for Motor Vehicles**

Directive 86/217/EEC<sup>12</sup> defines tyre pressure gauges as instruments not fitted with pre-setting devices used in fixed or mobile installations for inflating motor-vehicle tyres in which a mechanical measuring system transmits the elastic deformation of a sensing element to an indicating device.

This Directive is focused on those gauges used for professional and commercial use (such as those found in garages) rather than those owned by consumers (such as foot pumps and hand-held gauges).

The international standard is OIML [recommendation 23](#) of 1975.

### **Standard Mass of Grain**

Directive 71/347/EEC<sup>13</sup> provides the basis for presenting the standard mass of grain per storage volume.

There is neither an international nor a European standard available.

### **Calibration of Ship Tanks**

Directive 71/349/EEC<sup>14</sup> provides the basis for the calibration (using liquid levels) of the tanks of inland waterway vessels and of coasters.

The international standard is OIML [recommendation 95](#) of 1990.

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<sup>10</sup> Council Directive 71/317/EEC of 26 July 1971 on the approximation of the laws of the Member States relating to 5 to 50 kilogramme medium accuracy rectangular weights and 1 to 10 kilogramme accuracy cylindrical weights, OJ L202, 06/09/1971, p14.

<sup>11</sup> Council Directive 74/148/EEC of 4 March 1974 on the approximation of the laws of the Member States relating to weights of from 1mg to 50 kg of above-medium accuracy, OJ L084, 28/03/1974, p3.

<sup>12</sup> Council Directive 86/217/EEC of 26 May 1986 on the approximation of the laws of the Member States relating to tyre pressure gauges for motor vehicles, OJ L152, 06/06/1986, p48.

<sup>13</sup> Council Directive 71/347/EEC of 12 October 1971 on the approximation of the laws of the Member States relating to the measuring of the standard mass of grain per storage volume of grain, OJ L239, 25/10/1971, p1.

<sup>14</sup> Council Directive 71/349/EEC of 12 October 1971 on the approximation of the laws of the Member States relating to the calibration of the tanks of vessels, OJ L239, 25/10/1971, p15.

**ANNEX 2: VIEWS OF 21 MEMBER STATES ABOUT THE NEED FOR REGULATION PER SECTOR**

	Repeal	Regulate
1 Cold water meters Dir 75/33	13	8
2. Alcohol meters Dir 76/765	12	9
3. Alcohol tables Dir 76/766	11	10
4. Medium accuracy weights Dir 71/317	13	8
5. Above medium accuracy weights Dir 74/148	14	7
6. Tyre pressure gauges for motor vehicles Dir 86/217	11	10
7. Standard mass of grain Dir 71/347	15	6
8. Calibration of ship tanks Dir 71/349	14	7