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**A7-0050/2010**

19.3.2010

**\*\*\*I**

## **REPORT**

on the proposal for a directive of the European Parliament and of the Council  
repealing Council Directives 71//317/EEC, 71/347/EEC, 71/349/EEC,  
74/148/EEC, 75/33/EEC, 76/765/EEC, 76/766/EEC, and 86/217/EEC  
regarding metrology  
(COM(2008)0801 – C6-0467/2008 – 2008/0227(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Anja Weisgerber

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* alerts the relevant departments to parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act which the draft act seeks to amend includes a third and fourth line identifying respectively the existing act and the provision in that act affected by the amendment. Passages in a provision of an existing act that Parliament wishes to amend, but the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...].

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## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the proposal for a directive of the European Parliament and of the Council repealing Council Directives 71/317/EEC, 71/347/EEC, 71/349/EEC, 74/148/EEC, 75/33/EEC, 76/765/EEC, 76/766/EEC, and 86/217/EEC regarding metrology (COM(2008)0801 – C6-0467/2008 – 2008/0227(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0801),
  - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0467/2008),
  - having regard to the Communication from the Commission to the European Parliament and the Council entitled "Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures" (COM(2009)0665),
  - having regard to Article 294(3) and Article 114 of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 14 May 2009<sup>1</sup>,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection (A7-0050/2010),
1. Adopts the position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, to the Commission and to the national parliaments.

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<sup>1</sup> OJ C 277, 17.11.2009, p. 49.

## Amendment 1

### Proposal for a directive Recital 5

#### *Text proposed by the Commission*

(5) Technical progress and innovation with regard to measuring instruments covered by the Directives being repealed **is** ensured in practice **either** by the voluntary application of the international and European standards which have been developed or by the application of national provisions implementing such new specifications. Furthermore, the free circulation within the internal market of all products concerned by them is ensured by the satisfactory application of *Articles 28 to 30 of the EC Treaty* and of the mutual recognition principle.

#### *Amendment*

(5) Technical progress and innovation with regard to measuring instruments covered by the Directives being repealed **will be** ensured in practice by the voluntary application of the international and European standards which have been developed, by the application of national provisions implementing such new specifications, **or, in line with the principles of better law-making, by including additional provisions in Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments<sup>1</sup>.** Furthermore, the free circulation within the internal market of all products concerned by them is ensured by the satisfactory application of *Articles 34 to 36 of the Treaty on the Functioning of the European Union* and of the mutual recognition principle.

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<sup>1</sup> OJ L 135, 30.4.2004, p. 1.

#### *Justification*

*To avoid any legal uncertainty the possibility of including provisions referring to the measuring instruments covered by the Directives being repealed in the general Measurements Instruments Directive (2004/22/EC) is introduced here.*

## Amendment 2

### Proposal for a directive Recital 6

#### *Text proposed by the Commission*

(6) The repeal of the Directives should not

#### *Amendment*

(6) The repeal of the Directives should not

lead to any new barriers to the free movement or to additional administrative burdens. ***Furthermore, while respecting the principles of proportionality and subsidiarity, there is no evidence of a common need for a higher level of consumer protection.***

lead to any new barriers to the free movement or to additional administrative burdens.

*Justification*

*Not relevant. Neither repealing nor remaining the Directives will enhance the common level of consumer protection. Only adjusting them could do this.*

### **Amendment 3**

#### **Proposal for a directive Recital 6 a (new)**

*Text proposed by the Commission*

*Amendment*

***(6a) Directive 71/349/EEC should therefore be repealed.***

*Justification*

*Repealing all eight Directives will most likely lead to additional administrative burdens as Members States may decide to introduce national provisions implementing the measuring instruments covered by the Directives being repealed. Only with regard to the Directive on Calibration of ship tanks a clear majority of Member States indicated that such national provisions are not foreseen. Therefore only Directive 71/349/EEC could be repealed immediately.*

### **Amendment 4**

#### **Proposal for a directive Recital 7**

*Text proposed by the Commission*

*Amendment*

(7) Directives 71/317/EEC, 71/347/EEC, ***71/349/EEC***, 74/148/EEC, 75/33/EEC, 76/765/EEC, 76/766/EEC and 86/217/EEC should ***therefore*** be repealed.

(7) Directives 71/317/EEC, 71/347/EEC, 74/148/EEC, 75/33/EEC, 76/765/EEC, 76/766/EEC and 86/217/EEC should be repealed ***only after an assessment whether the measuring instruments falling within the scope of those directives should be included within the scope of Directive 2004/22/EC. The Commission should carry out such an assessment in parallel***

*with its report on the implementation of Directive 2004/22/EC in accordance with Article 25 thereof.*

*Justification*

*Article 25 of Directive 2004/22/EC, the general Measurements Instruments Directive (MID), concerns a "Revision clause" in which the European Parliament and the Council invite the Commission to report, before 30 April 2011, on the implementation of the MID, and, where appropriate, to submit a proposal for amendments. In this context the Member States are able to indicate which provisions may be necessary for the measuring instruments covered by the Directives being repealed.*

**Amendment 5**

**Proposal for a directive  
Article -1 (new)**

*Text proposed by the Commission*

*Amendment*

**Article -1**

***Directive 71/349/EEC is repealed with effect from 1 January 2011.***

*Justification*

*See justification on recital 6a (new).*

**Amendment 6**

**Proposal for a directive  
Article 1**

*Text proposed by the Commission*

*Amendment*

Directives 71/317/EEC, 71/347/EEC, **71/349/EEC**, 74/148/EEC, 75/33/EEC, 76/765/EEC, 76/766/EEC and 86/217/EEC are repealed with effect from **{1 January 2010}**.

Directives 71/317/EEC, 71/347/EEC, 74/148/EEC, 75/33/EEC, 76/765/EEC, 76/766/EEC and 86/217/EEC are repealed with effect from **1 May 2014**.

*Justification*

*Member States should be given more time to investigate whether repealing the Directives will lead to legal uncertainty which makes European harmonisation of rules necessary. Therefore one Directive will be repealed now, the other seven Directives will also be repealed, but only after analysing the possible consequences in context with the broader review of the basic*



legal instrument in this field, the "Measurement Instruments Directive" (2004/22/EC). It is thus appropriate to set the date of repeal for the seven Directives sufficiently far in advance to enable the co-legislators to take a different view in the context of any revision of Directive 2004/22.

## Amendment 7

### Proposal for a directive Article 1 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 1a*

***By 30 April 2011, the Commission shall, on the basis of reports provided by the Member States, evaluate whether the measuring instruments falling within the scope of the directives referred to in Article 1 need to be included in the scope of Directive 2004/22/EC. The Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal to that effect.***

*Justification*

*See justification for amendment on recital 7. The deadline correlates to article 25 of the MID.*

## Amendment 8

### Proposal for a directive Article 2 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall adopt and publish, by ***{31 December 2009} at the latest***, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive. They shall apply those provisions from ***{1 January 2010}***.

1. Member States shall adopt and publish, by ***30 April 2014***, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive. They shall apply those provisions from ***1 May 2014***.

## *Justification*

*Member States should be given more time to investigate whether repealing the Directives will lead to legal uncertainty which makes European harmonisation of rules necessary. Therefore one Directive will be repealed now, the other seven Directives will also be repealed, but only after analysing the possible consequences in context with the broader review of the basic legal instrument in this field, the "Measurement Instruments Directive" (2004/22/EC). It is thus appropriate to set the date of repeal for the seven Directives sufficiently far in advance to enable the co-legislators to take a different view in the context of any revision of Directive 2004/22.*

## **Amendment 9**

### **Proposal for a directive Article 3**

#### *Text proposed by the Commission*

EEC pattern approvals and EEC certificates issued until **{31 December 2009}** under *the Directives* referred to in **Article 1** shall remain valid.

#### *Amendment*

- 1.** EEC pattern approvals and EEC certificates issued until **31 December 2010** under **Directive 71/349/EEC** referred to in **Article -1** shall remain valid.
- 2.** **EEC pattern approvals and EEC certificates issued until 30 April 2014 under the Directives referred to in Article 1 shall remain valid.**

## **EXPLANATORY STATEMENT**

### **Commission proposal**

The proposal concerns the repeal of 8 Council Directives on metrology in 6 sectors, with the aim to simplify the acquis of European law:

- Directive 75/33/EEC on Cold Water Meters for Non-Clean Water;
- Directives 76/765/EEC and 76/766/EEC on Alcohol Meters and Alcohol Tables;
- Directives 71/317/EEC and 74/148/EEC on Medium and Above-Medium Accuracy Weights respectively;
- Directive 86/217/EEC on Tyre Pressure Gauges for Motor Vehicles;
- Directive 71/347/EEC on Standard Mass of Grain;
- Directive 71/349/EEC on Calibration of Ship Tanks.

### **Position Rapporteur**

The rapporteur favours the general objective of better regulation. However, with regard to this proposal it is not that clear what the best option will be. The Commission concludes in their Impact Assessment, when looking at the different options concerning these 8 metrology Directives (full repeal, repeal with conditions, do nothing), that "no option stands out". Still, for reasons of better regulation, the Commission favours the full repeal of all Directives (and relies on mutual recognition of national regulation) above harmonisation (i.e. re-regulation in MID).

The rapporteur is of the opinion that Member States should be given more time to investigate whether repealing the Directives will lead to legal uncertainty which makes European harmonisation of rules necessary. Therefore the rapporteur opts for a solution where the Directives will be repealed, but also provides sufficient time to analyse the possible consequences in context with the broader review of the basic legal instrument in this field, the "Measurement Instruments Directive" (2004/22/EC).

### **Position Commission**

The Commission proposes to repeal these 8 Metrology Directives, because they are obsolete and can be repealed for reasons of better regulation. The Commissions also examined the option of extending the scope of Directive 2004/22/EC in order to include some of the instruments from the 8 directives. However they concluded that harmonisation is not necessary as the current situation of mutual recognition of national rules based upon international standards functions satisfactorily. No problems for free movement are apparent and there is no evidence of a common need for a higher level of consumer protection. In addition, a substantial number of Member States are expected to make use of Article 2 of Directive 2004/22/EC and will opt-out of the harmonisation. As a result, extending the scope of the MID does not appear appropriate.

## **Position Council**

While there is broad support in Council for the objective of simplifying the acquis of EU law, there seems to be a general concern that a repeal of these eight Directives could lead to a legal vacuum in the Member States pending the planned review of the MID.

## PROCEDURE

<b>Title</b>	Repeal of directives regarding metrology			
<b>References</b>	COM(2008)0801 – C6-0467/2008 – 2008/0227(COD)			
<b>Date submitted to Parliament</b>	3.12.2008			
<b>Committee responsible</b> Date announced in plenary	IMCO 19.10.2009			
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	ITRE 19.10.2009			
<b>Not delivering opinions</b> Date of decision	ITRE 28.9.2009			
<b>Rapporteur(s)</b> Date appointed	Anja Weisgerber 14.9.2009			
<b>Discussed in committee</b>	2.9.2009	29.9.2009	6.10.2009	8.2.2010
<b>Date adopted</b>	17.3.2010			
<b>Result of final vote</b>	+: 30 -: 3 0: 0			
<b>Members present for the final vote</b>	Pablo Arias Echeverría, Cristian Silviu Buşoi, Lara Comi, António Fernando Correia De Campos, Christian Engström, Evelyne Gebhardt, Louis Grech, Małgorzata Handzlik, Malcolm Harbour, Philippe Juvin, Sandra Kalniete, Eija-Riitta Korhola, Kurt Lechner, Toine Manders, Gianni Pittella, Mitro Repo, Robert Rochefort, Zuzana Roithová, Heide Rühle, Matteo Salvini, Christel Schaldemose, Andreas Schwab, Laurence J.A.J. Stassen, Catherine Stihler, Róza Gräfin Von Thun Und Hohenstein, Kyriacos Triantaphyllides, Bernadette Vergnaud			
<b>Substitute(s) present for the final vote</b>	Cornelis de Jong, Ashley Fox, Jacek Olgierd Kurski, Antonyia Parvanova, Sylvana Rapti, Wim van de Camp, Anja Weisgerber			