



EUROPEAN PARLIAMENT

2009 - 2014

Committee on International Trade

2011/0150(COD)

1.2.2012

OPINION

of the Committee on International Trade

for the Committee on the Internal Market and Consumer Protection

on the proposal for a Regulation of the European Parliament and of the Council on European Standardisation and amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/105/EC and 2009/23/EC of the European Parliament and of the Council
(COM(2011)0315 – C7-0150/2011 – 2011/0150(COD))

Rapporteur: Franck Proust

PA_Legam

SHORT JUSTIFICATION

The purpose of this Commission proposal for a regulation is to revise the existing directives. The current system is quite effective, and it is important that this regulation should only provide for an evolution of the provisions already in place, rather than revolutionising them.

Standardisation contributes to numerous aspects of economic activity, particularly growth, productivity and opening-up of markets. It has many effects on trade. Standardisation can also be used by certain protectionist countries as a technical barrier to trade.

For that reason, the European Union must promote international standards, as it does via international standardisation bodies, or by means of bilateral approaches, particularly when negotiating trade agreements. It would also be desirable for the Commission to include international objectives in its work programme.

Our opinion is mainly concerned with technical specifications in the field of ICT. These are most commonly drawn up by forums and consortia, i.e. groups of undertakings of various sizes whose aim is to draft specifications together. In the majority of cases, these forums and consortia have an international dimension, and their work therefore has international repercussions. They are not subject to the same obligations as European standardisation bodies (ESB). The ICT sector is a particularly dynamic one, for which standardisation must be very reactive in order to ensure interoperability but also promote competition and innovation. There are therefore many more technical specifications in the ICT sector than elsewhere.

From the international point of view, technical specifications must be encouraged as, being drawn up by organisations with international dimensions, they make it possible to open up markets outside Europe and limit technical barriers to trade.

However, at present they are inadequately recognised at European level, and many Member States cannot refer to them in invitations to tender for public contracts.

In its proposal, the Commission proposes making it possible to recognise these technical specifications in the field of ICT as ICT standards, on the proposal of a Member State or at its own initiative, provided that they comply with certain requirements. However, we do not believe that this approach will make it possible to solve the problems outlined above.

Firstly, it will result in interference by the Commission in the standardisation process, as it can decide on its own initiative that a technical specification should be a standard without its having been drafted by an ESB. It is important to avoid interference by policy-makers with standardisation, as the latter constitutes a voluntary process. Moreover, although, in order to be recognised as ICT standards, technical specifications must comply with requirements set out in the annexes to the proposal, on what basis will the Commission recognise one technical specification rather than another as the standard?

The next problem is that it will create confusion between standards and technical specifications. Forums and consortia are not subject to the same obligations as ESB, particularly as regards consulting SMEs and social, environmental and consumer protection bodies. Nor are they required to comply with the principle of coherence, whereby it is not

possible to adopt contradictory standards or to draft a standard which duplicates another. We believe that it is important to retain a clear distinction between standards and technical specifications, at the risk of allowing a parallel system of standardisation to develop.

Lastly, the criteria with which ICT technical specifications must comply in order to be recognised as standards by the Commission seem to us to be incomplete. They forget certain WTO criteria, particularly that of coherence.

Finally, by decision of 28 November 2011, published in the Official Journal of the European Union on 30 November 2011, the Commission decided to create a European multi-stakeholder platform on ICT standardisation, comprising representatives of the national authorities of the Member States and EFTA countries, representatives of SMEs and industry, and other civil-society stakeholders. The remit of the platform will be to advise the European Commission on standardisation in the ICT sector (work programme, needs, implementation, etc.).

Thus, without denying the work done by forums and consortia in the field of ICT, we propose that the Commission, after consulting the multi-stakeholder platform on ICT standardisation, allow all Member States to refer to the technical specifications in invitations to tender for public contracts or in the implementation of European Union policies provided that they comply with the requirements of the annex, the latter incorporating all the WTO criteria.

AMENDMENTS

The Committee on International Trade calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) European standards should continue to be adopted by the European standardisation bodies, namely European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC) and the European Telecommunications Standards Institute (ETSI).

Amendment

(3) *Does not affect the English version.*

Amendment 2

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Standardisation plays an increasingly important role in international trade and the opening-up of markets. Thanks to the Dresden and Vienna agreements, the Union seeks to promote the drafting of standards at international level, thus making European undertakings and industries more competitive on the international scene. But standardisation may also be used by third countries as an anti-competitive instrument, creating technical barriers to trade. Cooperation between European and international standardisation bodies is therefore fundamental, but the Union should also promote bilateral approaches by coordinating its standardisation work with its partners, for example in the context of the transatlantic dialogue.

Amendment 3

Proposal for a regulation Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) The promotion of European standards should also be undertaken by means of bilateral contacts when negotiating agreements or by seconding standardisation experts to third countries, as has been done in the case of China. Such an initiative should also be launched, as a priority, with India, Russia and Brazil.

Amendment 4

Proposal for a regulation Recital 4 c (new)

Text proposed by the Commission

Amendment

(4c) In addition to standards drawn up by national, European and international standardisation bodies, technical specifications are drafted by forums and consortia. Those technical specifications are useful to deal with a situation where no standards exist. Particularly thanks to the international dimension of forums and consortia, those technical specifications make it possible to open up markets outside Europe and limit technical barriers to trade, especially in the field of information and communication technologies (ICT). The Union should encourage contact between standardisation bodies and those forums and consortia, albeit while taking care not to generate a system which competes with standardisation.

Amendment 5

Proposal for a regulation Recital 13

Text proposed by the Commission

Amendment

(13) Standards are important tools for undertakings and especially small and medium-sized enterprises (hereinafter ‘SME’) which, however, are not adequately involved in the standardisation system so that the risk exists that standards do not take into account the needs and concerns of SME. ***Consequently***, it is essential to improve their representation and participation in the standardisation process, particularly in the technical committees.

(13) Standards are important tools for undertakings and especially small and medium-sized enterprises (hereinafter ‘SMEs’) which, however, are not adequately involved in the standardisation system so that the risk exists that standards do not take into account the needs and concerns of SME. ***Standardisation rules should encourage SMEs to actively contribute their innovative technology solutions to standardisation efforts. Furthermore***, it is essential to improve their representation and participation in the standardisation process,

particularly in the technical committees.

Amendment 6

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) European standards are of vital interest for the competitiveness of SMEs which, however, are in general under-represented in standardisation activities, in particular at European level. Thus, this Regulation should ensure an appropriate representation of SME in the European standardisation process by an entity with appropriate qualifications.

Amendment

(14) European standards are of vital interest for the competitiveness of SMEs which, however, are in ***some areas*** under-represented in standardisation activities, in particular at European level. Thus, this Regulation should ensure an appropriate representation of SME in the European standardisation process, ***while maintaining the principle of national delegation and avoiding an unnecessary duplication of structures at European level*** by an entity with appropriate qualifications. ***Special attention should be devoted to the representation and needs of SMEs with regard to international standardisation work.***

Amendment 7

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) Public authorities should make best use of the full range of relevant standards when procuring hardware, software and information technology services, for example by selecting standards which can be implemented by all interested suppliers, allowing for more competition and reduced risk of lock-in. Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport

Amendment

(19) Public authorities should make best use of the full range of relevant standards when procuring hardware, software and information technology services, for example by selecting standards which can be implemented by all interested suppliers, allowing for more competition and reduced risk of lock-in. Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport

and postal services sectors and Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts specify that technical specifications in public procurement should be formulated by reference to national standards transposing European standards, European technical approvals, common technical specifications, international standards, other technical reference systems established by the European standardisation bodies or - when these do not exist - to national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works and use of the products, or equivalent. Standards in the field of information and communication technologies, however, are often developed by other standard developing organisations and do not fall in any of the categories of standards and approvals laid down in Directives 2004/17/EC and 2004/18/EC. Therefore, it is necessary to provide for the possibility that *technical specifications* for public procurement could refer to *standards* in the field of information and communication technologies, in order to respond to the fast evolution in the field of information and communication technologies, facilitate the provision of cross-border services, encourage competition and promote interoperability and innovation.

and postal services sectors and Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts specify that technical specifications in public procurement should be formulated by reference to national standards transposing European standards, European technical approvals, common technical specifications, international standards, other technical reference systems established by the European standardisation bodies or - when these do not exist - to national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works and use of the products, or equivalent. Standards in the field of information and communication technologies, however, are often developed by other standard developing organisations and do not fall in any of the categories of standards and approvals laid down in Directives 2004/17/EC and 2004/18/EC. Therefore, it is necessary to provide for the possibility that *invitations to tender* for public procurement could refer to *certain technical specifications* in the field of information and communication technologies, in order to respond to the fast evolution in the field of information and communication technologies, facilitate the provision of cross-border services, encourage competition and promote interoperability and innovation.

Amendment 8

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) Some *standards* in the field of

Amendment

(20) Some *technical specifications* in the

information and communication technologies are not developed according to the criteria set out in Annex 3 of the Agreement on Technical Barriers to Trade. Therefore, this Regulation should lay down a procedure for the selection of the **standards** in the field of information and communication technologies that could be used in public procurement, involving a broad consultation of a large spectrum of stakeholders, including the European standardisation bodies, enterprises and public authorities. This Regulation should also lay down requirements, in the form of a list of attributes, for such **standards** and their associated standardisation processes. These attributes should ensure that public policy objectives and societal needs are respected, and should be founded on the criteria developed within the World Trade Organisation for international standardisation organisations.

field of information and communication technologies are not developed according to the criteria set out in Annex 3 of the Agreement on Technical Barriers to Trade. Therefore, this Regulation should lay down a procedure for the selection of the **technical specifications** in the field of information and communication technologies that could be used in public procurement, involving a broad consultation of a large spectrum of stakeholders, including the European standardisation bodies, enterprises and public authorities. This Regulation should also lay down requirements, in the form of a list of attributes, for such **technical specifications** and their associated standardisation processes. These attributes should ensure that public policy objectives and societal needs are respected, and should be founded on the criteria developed within the World Trade Organisation for international standardisation organisations.

Amendment 9

Proposal for a regulation Recital 22

Text proposed by the Commission

(22) The selected **standards** in the field of information and communication technologies could contribute to the implementation of Decision No 922/2009/EC of the European Parliament and of the Council of 16 September 2009 on interoperability solutions for European public administrations (ISA) which establishes, for the period 2010-2015, a programme on interoperability solutions for European public administrations and institutions and bodies of the Union, providing common and shared solutions facilitating

Amendment

(22) The selected **technical specifications** in the field of information and communication technologies could contribute to the implementation of Decision No 922/2009/EC of the European Parliament and of the Council of 16 September 2009 on interoperability solutions for European public administrations (ISA) which establishes, for the period 2010-2015, a programme on interoperability solutions for European public administrations and institutions and bodies of the Union, providing common and shared solutions facilitating

interoperability.

interoperability.

Amendment 10

Proposal for a regulation

Article 2 – point 1 – point e

Text proposed by the Commission

(e) ‘ICT standard’ means a standard in the field of information and communication technologies.

Amendment

deleted

Amendment 11

Proposal for a regulation

Article 4 – paragraph 2

Text proposed by the Commission

2. Each European and national standardisation body shall ***promptly*** reply to, and take due account of, any comments received from any other European and national standardisation body and the Commission with respect to any such draft.

Amendment

2. Each European and national standardisation body shall reply ***within one month*** to, and take due account of, any comments received from any other European and national standardisation body and the Commission with respect to any such draft.

Amendment 12

Proposal for a regulation

Article 4 – paragraph 3 – point a

Text proposed by the Commission

(a) the publication of draft standards in such a way that parties established in other Member States have the opportunity to submit comments;

Amendment

(a) the ***prompt*** publication of draft standards in such a way that parties established in other Member States have the opportunity to submit comments;

Amendment 13

Proposal for a regulation

Article 5 – paragraph 1 – introductory part

PE478.355v02-00

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Text proposed by the Commission

1. European standardisation bodies shall **ensure** an appropriate representation of small and medium-sized enterprises (hereinafter 'SME'), consumer organisations and environmental and social stakeholders, in particular through the organisations referred to in Annex III, at the policy development level and at least at the following stages of the development of European standards or European standardisation deliverables:

Amendment

1. European standardisation bodies shall **encourage** an appropriate representation of small and medium-sized enterprises (hereinafter 'SME'), consumer organisations, **workers** and environmental and social stakeholders, in particular through the organisations referred to in Annex III, at the policy development level and at least at the following stages of the development of European standards or European standardisation deliverables:

Amendment 14

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

2. European standardisation bodies shall **ensure** an appropriate representation, at technical level, of undertakings, research centres and universities and other legal entities, in standardisation activities concerning an emerging area with significant policy or technical innovation implications, if the legal entities concerned participated in a project that is related to that area and that is funded by the Union under a multiannual framework programme for activities in the area of research and technological development.

Amendment

2. European standardisation bodies shall **encourage** an appropriate representation, at technical level, of undertakings, research centres and universities and other legal entities, in standardisation activities concerning an emerging area with significant policy or technical innovation implications, if the legal entities concerned participated in a project that is related to that area and that is funded by the Union under a multiannual framework programme for activities in the area of research and technological development.

Amendment 15

Proposal for a regulation
Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a
Best practice model

European standardisation bodies shall support, foster and disseminate best practice models for the involvement of stakeholders in national standardisation bodies.

Amendment 16

Proposal for a regulation

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

The European standardisation work programme shall also include objectives for the international dimension of European standardisation, in support of Union legislation and policies, and outline who is to make what efforts to develop international cooperation.

Amendment 17

Proposal for a regulation

Article 6 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The European standardisation work programme referred to in paragraph 1 shall outline how the standardisation work is to be incorporated into the Europe 2020 strategy and how coherence between the two will be maintained.

Amendment 18

Proposal for a regulation

Article 6 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. The European standardisation work programme referred to in paragraph 1 shall be forwarded to the European Parliament and the Council for their opinions.

Amendment 19

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

1. The Commission may request one or several European standardisation bodies to draft a European standard or European standardisation deliverable within a set deadline. They shall be market-driven, take into account the public interest and based on consensus.

Amendment

1. The Commission may request one or several European standardisation bodies to draft a European standard or European standardisation deliverable within a set deadline, ***which is ambitious and to which are annexed clear lists of requirements, interim objectives and details of public funding.*** They shall be market-driven, take into account the public interest and based on consensus.

Amendment 20

Proposal for a regulation Article 7 – paragraph 3

Text proposed by the Commission

The Commission shall inform the relevant European standardisation body, within ***three months*** following the receipt of the acceptance referred to in paragraph 2, about the award of a grant for drafting a European standard or European standardisation deliverable.

Amendment

The Commission shall inform the relevant European standardisation body, within ***two months*** following the receipt of the acceptance referred to in paragraph 2, about the award of a grant for drafting a European standard or European standardisation deliverable.

Amendment 21

Proposal for a regulation Chapter IV – title

Text proposed by the Commission

Standards in the field of ICT

Amendment

Technical specifications in the field of
ICT

Amendment 22

Proposal for a regulation Article 9 – title

Text proposed by the Commission

Recognition of technical specifications in
the field of ICT

Amendment

Use of technical specifications in the field
of ICT

Amendment 23

Proposal for a regulation Article 9

Text proposed by the Commission

Either on proposal from a public authority referred to in Directive 2004/18/EC or on its own initiative the Commission may decide to recognise technical specifications which are not national, European or international standards and meet the requirements set out in Annex II, *as ICT standards*.

Amendment

Either on proposal from a public authority referred to in Directive 2004/18/EC or on its own initiative the Commission, *after consulting the European multi-stakeholder platform on ICT standardisation*, may decide to recognise technical specifications *in the field of ICT* which are not national, European or international standards and meet the requirements set out in Annex II *for the purpose of awarding public contracts or implementing Union policies*.

Amendment 24

Proposal for a regulation Article 10

Text proposed by the Commission

Amendment

Article 10

deleted

Use of ICT standards in public procurement
ICT standards referred to in Article 9 shall constitute common technical specifications referred to in Directives 2004/17/CE and 2004/18/CE, and Regulation (EC) No 2342/2002.

Amendment 25

Proposal for a regulation Article 11 – paragraph 1 - point e

Text proposed by the Commission

Amendment

(e) the translation, where required, of European standards or European standardisation deliverables used in support of Union policies and legislation into the official Union languages other than the working languages of the European standardisation bodies or, ***in duly justified cases*** into languages other than the official Union languages,

(e) the translation, where required, of European standards or European standardisation deliverables used in support of Union policies and legislation into the official Union languages other than the working languages of the European standardisation bodies or into languages other than the official Union languages ***when that makes it possible to promote European standards in third countries,***

(The wrong numbering in the French version of the Commission proposal should be corrected.)

Amendment 26

Proposal for a regulation Article 13 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall decide on the financing arrangements referred to in paragraphs 1 and 2, on the amounts of the

3. The Commission shall decide on the financing arrangements referred to in paragraphs 1 and 2, on the amounts of the

grants and, where necessary, on the maximum percentage of financing by type of activity.

grants and, where necessary, on the maximum percentage of financing by type of activity. ***The Commission shall ensure that the Union funding is only supplementary in nature and is made contingent on compliance with specific requirements, so that funding for European standardisation continues to be provided mainly by the private sector.***

Amendment 27

Proposal for a regulation Article 16 - point b

Text proposed by the Commission

(b) adapt the criteria for recognising standards in the field of ICT set out in Annex II to technical developments;

(The wrong numbering in the French version of the Commission proposal should be corrected.)

Amendment

(b) adapt the criteria for recognising standards in the field of ICT set out in Annex II to technical developments, ***without, however, creating or abandoning any of the criteria;***

Amendment 28

Proposal for a regulation Article 16 - point c

Text proposed by the Commission

(c) adapt the criteria for organisations representing SME and societal stakeholders set out in Annex III to further developments as regards their non-profit making nature and representativity.

(The wrong numbering in the French version of the Commission proposal should be corrected.)

Amendment

(c) adapt the criteria for organisations representing SME and societal stakeholders set out in Annex III to further developments as regards their non-profit making nature and representativity ***without, however, creating, abandoning or abolishing any criterion or organisation.***

Amendment 29

Proposal for a regulation Annex II – point 2 – introduction

Text proposed by the Commission

2. the technical specifications were developed by a non-profit making organisation which is a professional society, industry or trade association or any other membership organisation that within its area of expertise develops **standards** in the field of information and communication technologies and which is not a European, national or international standardisation body, through processes which fulfil the following criteria:

Amendment

2. the technical specifications were developed by a non-profit making organisation which is a professional society, industry or trade association or any other membership organisation that within its area of expertise develops **technical specifications** in the field of information and communication technologies and which is not a European, national or international standardisation body, through processes which fulfil the following criteria:

Amendment 30

Proposal for a regulation Annex II – point 2 – letter a

Text proposed by the Commission

the technical specifications were developed on the basis of open decision-making accessible to all **interested operators** in the market or markets affected by the **standard**.

Amendment

the technical specifications were developed on the basis of open decision-making accessible to all **parties concerned** in the market or markets affected by the **technical specification**.

Amendment 31

Proposal for a regulation Annex II – point 2 – letter b

Text proposed by the Commission

the **standardisation** process was collaborative and consensus based and did not favour any particular stakeholder. Consensus means a general agreement,

Amendment

the process **of drafting technical specifications** was collaborative and consensus based and did not favour any particular stakeholder. Consensus means a

characterised by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves seeking to take into account the views of all parties concerned and to reconcile any conflicting arguments. Consensus does not imply unanimity.

general agreement, characterised by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves seeking to take into account the views of all parties concerned and to reconcile any conflicting arguments. Consensus does not imply unanimity.

Amendment 32

Proposal for a regulation

Annex 2 – paragraph 3 – point f a (new)

Text proposed by the Commission

Amendment

(fa) coherence:

(i) the technical specifications do not contradict existing national, European and international standards or those in the process of being drafted, nor do they duplicate them.

(ii) this provision should respect the principle of technological neutrality and not be applied in an anti-competitive manner.

PROCEDURE

Title	European standardisation
References	COM(2011)0315 – C7-0150/2011 – 2011/0150(COD)
Committee responsible Date announced in plenary	IMCO 23.6.2011
Committee(s) asked for opinion(s) Date announced in plenary	INTA 23.6.2011
Discussed in committee	23.11.2011 20.12.2011
Date adopted	26.1.2012
Result of final vote	+: 21 –: 6 0: 0
Members present for the final vote	William (The Earl of) Dartmouth, Laima Liucija Andrikiienė, María Auxiliadora Correa Zamora, Marielle De Sarnez, Christofer Fjellner, Yannick Jadot, Metin Kazak, Bernd Lange, Emilio Menéndez del Valle, Vital Moreira, Paul Murphy, Cristiana Muscardini, Franck Proust, Godelieve Quisthoudt-Rowohl, Niccolò Rinaldi, Helmut Scholz, Peter Šťastný, Gianluca Susta, Keith Taylor, Jan Zahradil, Paweł Zalewski
Substitute(s) present for the final vote	Amelia Andersdotter, José Bové, George Sabin Cutaş, Mário David, Syed Kamall, Silvana Koch-Mehrin, Inese Vaidere, Pablo Zalba Bidegain
Substitute(s) under Rule 187(2) present for the final vote	Véronique De Keyser, Jutta Haug, Pier Antonio Panzeri, Traian Ungureanu