



COMMISSION OF THE EUROPEAN COMMUNITIES

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COM(2007) 510 final

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Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Directive 80/181/EEC on the approximation of the laws of the  
Member States relating to units of measurement**

(presented by the Commission)

{SEC(2007) 1136}

{SEC(2007) 1137}

## **EXPLANATORY MEMORANDUM**

Following a wide consultation of stakeholders and an impact assessment, the Commission proposes updating the Directive 80/181/EEC to include consumer protection and environment in its scope, to include as a legal unit the new SI unit for catalytic activity (katal) to allow the use of supplementary indications indefinitely and no longer to require the UK and Ireland to end the limited local exemptions for pint, mile and troy ounce where they are still in use.

### **1. BACKGROUND**

#### **1.1. Existing legislation**

The Directive is applicable since 1980 and has served to standardise the use of legal units of measurement within the EU in accordance with the International System (SI) promulgated by the competent international body, the Bureau International des Poids et Mesures.

#### **1.2. The need for review**

There is a sundown clause (Art. 3.2) in the Directive, which would no longer allow the use of supplementary (non-metric) indications by 2009. If it were to apply, the EU would require all labelling to be in metric-only and this can give problems to economic operators and disturb international trade and competitiveness because the USA requires non-metric labelling next to metric. The Directive (Art. 6a) specifies that issues regarding its implementation, and in particular the matter of supplementary indications, should be further examined.

Also the Directive needs to be updated in line with technical progress, meaning in this case the inclusion of new metric units about which there is international agreement. In the case of new metric units, due to technical progress, Member States would otherwise implement national laws, which in certain cases may require relabelling, notably in the case of different moments of implementation of these national laws.

UK and in some cases Ireland would need to fix a date for ending the last exemptions under Article 1.b, where they are still being applied (pint for milk in returnable bottles and beer and cider on draught, mile for road traffic signs, speed and distance measurements, troy ounce for transactions in precious metals). Experience has however shown that these usages are local without any impediment to cross border trade.

The exemption of the acre for land registration allowed under Art 1.b however is no longer in use, because of changes in administrative procedures in both Member States.

#### **1.3. Impact assessment of policy alternatives**

As part of the policy on better regulation<sup>1</sup> the Commission implemented an impact assessment of policy alternatives<sup>2</sup>, which considered three alternatives: no action, repealing the Directive and updating the Directive.

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<sup>1</sup> [Interinstitutional Agreement on better law-making](#) signed in December 2003 and [European Governance: Better lawmaking](#), COM(2002) 275 final, 5.6.2002

<sup>2</sup> [Impacts of Policy Alternatives](#) of 28 May 2003 published in June 2003

The impact assessment showed the alternative of “updating the Directive” as the preferred option, because it maintains the existing situation and requires no new administrative costs, which in this area concern mainly labelling costs. This alternative includes a synergy between extending the use of supplementary indications and continuing flexibility as regards non-metric applications in the current practice of enforcing the Directive, notably in sectors that use measurement for which no metric unit exist, e.g. binary measurements in computing (bits, bytes). This alternative would ensure a continued application of the current practice which has, on the whole, not shown major problems. Allowing UK and Ireland indefinite exemptions (pint, mile, troy ounce) recognises the local nature and impact of the exemptions and is in line with the principle of subsidiarity.

The main costs resulting from the alternative of “no action” would be administration costs which are significant and probably will be highest for small- and medium-sized enterprises due to less scale effects. In order to keep the impact assessment proportionate no full estimate has been made using the standard cost model, but the quite similar estimates from various sources in industry are relied upon.

Costs resulting from the other alternative of “repealing the Directive” are very uncertain but could easily be high and relate to the fact that Member States may implement the international standards differently thus causing uncertainty and possibly barriers to trade. Also there might be costly losses on an incidental basis due to misunderstandings, for example the US Marslander spacecraft that crashed on Mars due to malfunctioning because inch/pound indications had been mixed up with metric indications in the production phase.

Authorising the supplementary indications for another 10 year period (a fourth deadline after 1989, 1999 and 2009) would imply major future changes in at least three policy areas (in vitro diagnostics, nutritional labelling and intellectual property rights) and would not be considered as a positive signal for change in the United States, which if it allowed metric-only labelling would be rewarded by an EU trade barrier to labelling with supplementary indications.

## **2. AIMS AND OBJECTIVES OF THE PROPOSAL**

### **2.1. Simplification and better regulation**

It is proposed for the reasons set out above to maintain the existing situation because it requires no new administrative costs, which in this area concern mainly labelling costs. This can be considered a simplification.

The proposal includes a synergy between extending the use of supplementary indications and continuing flexibility as regards non-metric applications in the current practice of enforcing the Directive, notably in sectors that use measurement for which no metric unit exist, e.g. binary measurements in computing (bits, bytes) It would ensure a continued application of the current practice which has, on the whole, not shown major problems and this can be considered to be better regulation.

Allowing UK and Ireland to continue with exemptions indefinitely (pint, mile, troy ounce) does not lead to barriers to trade and not requiring a change here can be considered compatible with the principle of subsidiarity.

### **2.2. Legal Basis**

The legal basis for the proposed Directive is Article 95 of the EC Treaty.

### **3. COHERENCE WITH COMMUNITY PRINCIPLES**

#### **3.1. Proportionality**

The objective of the Directive is to ensure that the use of units of measurement is harmonised on the basis of the international agreement on the system of SI units for expressing quantities. It adapts the exemptions in a way that no follow-up is required anymore and so that market operators have a stable and permanent regulatory environment.

The required update is due to external influences, i.e. the USA is still engaged in a gradual process to fully adapt its legal system to the use of metric-only labelling, whilst industry is comfortable with measurements in non-metric units, due to tradition or lack of metric alternatives.

Allowing the continued use of supplementary indications does not mean that the Community accepts the current non-tariff barriers in third countries against goods labelled exclusively in SI units. This represents a difficulty which is of prime concern to the Community and will need to continue to be addressed bilaterally in the Commission's ongoing contacts with such third countries. The situation in these third countries has gradually improved during the past decade, but would need to improve further before these countries can be said to fully apply the current international standards regarding SI units.

#### **3.2. Subsidiarity**

EU is not a signatory of the Metre Convention agreement on metric units, but all Member States are and they are bound by the agreement to implement it in their national legislation. The agreement is not binding, so Member States could choose to base their laws in different ways on the agreement, as was the case before 1980 and may repeat itself in the case of new units. EU action is necessary to ensure a common approach.

The existing Directive ensures a common approach on the basis of Article 95 of the Treaty with the result that units of measurement are harmonised on the Internal Market. As a result there are no barriers to trade on the Internal Market due to units of measurement, which are in line with international standards.

As regards fixing a date to end the current exemptions (pint for milk in returnable bottles and beer and cider on draught, mile for road traffic signs, distance and speed measurements, troy ounce for transactions in precious metals), these seem to have no impact on the single market and therefore are in line with the subsidiarity principle.

### **4. COHERENCE WITH COMMUNITY POLICIES**

#### **4.1. Competitiveness**

The proposal maintains the existing situation by requiring no new administrative costs, i.e. mainly labelling costs and has relatively high economic benefits EU-wide and worldwide. This is due to savings on administrative costs, which would be incurred if no EU action is taken.

## **4.2. Sustainable development**

Precise and correct measurement is an important element in sustainable development for which the Directive is a necessary tool. This should be fully reflected in the scope, see next point.

## **4.3. Other Community policies**

The scope of the existing Directive is wide and its scope should not be limited to specific fields of Community action. For example, in consumer protection and environmental protection the existing units of measurement are being applied. Article 2(a) setting out the scope of the directive should not contain references to Community objectives which already result from the legal basis, i.e. Article 95 of the Treaty. This is a change for an administrative reason and there are no costs expected whilst the current beneficial situation continues.

## **5. REFERENCE TO THE WORK PROGRAMME**

There is no mention of this proposal in the Commission work program, the reason for its presentation being an external one which was difficult to foresee.

## **6. RELEVANCE FOR THE EEA**

This proposal is covered by the Agreement on the European Economic Area.

## **7. EXTERNAL CONSULTATION**

Stakeholders were consulted during the 10-week period up to 1 March 2007. All reactions were published on the Europa web site by mid April, except for those which were confidential and those of individual firms where there was the potential risk of a breach of confidentiality.

Other than the contributions to the public consultation, which among others came from experts in the field (academics, teachers) but mostly industry, no external expertise was used.

The Commission's minimum standards have been met and so in no way were reactions excluded.

All input from stakeholders to the public consultation has been presented and discussed in the report on the public consultation. Reactions from EU industry were less geographically imbalanced than of individuals and were unanimous. The main conclusion in the report follows the unanimous recommendation of industry to lift the sundown clause.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Directive 80/181/EEC on the approximation of the laws of the Member States relating to units of measurement**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee<sup>3</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>4</sup>,

Whereas:

- (1) Directive 80/181/EEC<sup>5</sup> requires the United Kingdom and Ireland to fix a date for ending the exemptions, where they are still being applied, in respect of pint for milk in returnable bottles and beer and cider on draught, mile for road signs and speed indications, and troy ounce for transactions in precious metals. However, experience has shown that, given the local character of those exemptions and the limited number of products concerned, the maintenance of the exemptions would not lead to the imposition of a non-tariff barrier to trade, and as a consequence there is no longer a need to put an end to those exemptions.
- (2) It is appropriate to clarify that the scope of Directive 80/181/EEC is consistent with the objectives referred to in Article 95 of the Treaty and that it is not limited to any specific Community fields of action.
- (3) Directive 80/181/EEC authorises the use of supplementary indications in addition to the legal units laid down in Chapter I of the Annex to that Directive until 31 December 2009. However, in order to avoid creating obstacles for Community companies exporting to certain third countries that require products to be marked in other units than those laid down in Chapter I, it is appropriate to maintain the authorisation to use supplementary indications on a permanent basis.

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<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ C [...], [...], p. [...].

<sup>5</sup> OJ L 39, 15.2.1980, p. 40. Directive as last amended by Directive 1999/103/EC of the European Parliament and of the Council (OJ L 34, 9.2.2000, p. 17).

- (4) Supplementary indications would also allow the gradual and smooth introduction of new metric units which may be developed at the international level.
- (5) In 1999 the General Conference on Weights and Measures, adopted, within the framework of the International System of Units (SI), the “katal”, symbol “kat”, as the SI unit for catalytic activity. This new harmonised SI unit would ensure a coherent and uniform indication of units of measurement in the fields of medicine and biochemistry and would as a consequence eliminate any risks of misunderstanding arising from the use of non-harmonised units.
- (6) Since the acre is no longer in use for land registration purposes in the United Kingdom and Ireland there is no longer any need to provide for an exemption in that respect.
- (7) Directive 80/181/EC should therefore be amended accordingly.

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 80/181/EEC is amended as follows:

- (1) In Article 1, point b is replaced by the following:
 

“(b) those listed in Chapter II of the Annex only in those Member States where they were authorized on 21 April 1973.”
- (2) In Article 2, point a is replaced by the following:
 

“(a) The obligations arising under Article 1 relate to measuring instruments used, measurements made and indications of quantity expressed in units of measurement.”
- (3) In Article 3, paragraph 2 is replaced by the following:
 

“2. The use of supplementary indications shall be authorized.”
- (4) The Annex is amended as follows:
  - (a) In Chapter I, point 1.2.3, the following row is added:
 

Catalytic activity	katal	kat		mol · s <sup>-1</sup>
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  - (b) In Chapter II, the following row is deleted:
 

Land registration	acre	1 ac = 4 047 m <sup>2</sup>	ac
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  - (c) In Chapter II, the final sentence is replaced by the following: “The units listed in this Chapter may be combined with each other or with those in Chapter I to form compound units.”

*.Article 2  
Transposition*

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].

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 3*

This Directive shall enter into force on the [20th] day following that of its publication in the *Official Journal of the European Union*.

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, [...]

*For the European Parliament  
The President  
[...]*

*For the Council  
The President  
[...]*