Measuring instruments: trading transactions and use of legally controlled instruments

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This report provides an evaluation of the implementation of Directive 2004/22/EC (the Measuring Instruments Directive or MID). It is based on reports provided by Member States, and also draws on two SME surveys and a public consultation, as well as input from two external consultants provided inputs. The Measuring Instruments Directive () has been in operation for 4½ years since 30 October 2006 and applies to the following instruments: (i) water meters; (ii) gas meters and volume conversion devices; (iii) active electrical energy meters; (iv) heat meters; (v) measuring systems for continuous and dynamic measurement of quantities of liquids other than water; (vi) automatic weighing instruments; (vii) taximeters; (viii) material measures; (ix) dimensional measuring instruments; (x) exhaust gas analysers.

The main findings of the evaluation are as follows:

- innovation has not been hampered and in some cases MID is considered to be positive for innovation;
- optionality has led to close to full application with Member States requiring instruments as determined by the Directive in 90 % of possible cases. Therefore consumer protection is virtually equal across the EU and the risk of unfair competition due to differences between Member States is minimal;
- the MID has helped improve the operation of the internal market with the use of a single conformity assessment certificate, which, being about 10-15% more expensive than the former national certificates, has benefited producers that are active on more than one market. Such certificates need to have a common format;
- the smooth running of the Directive has been enhanced by the 2004 Commission Statement to WELMEC (the organisation of national authorities responsible for legal metrology) on Cooperation resulting in 40 guidance documents of conceptual nature being referenced on the Commission website after final agreement with all stakeholders in the Working group on Measuring Instruments;
- with the exception of taximeters there is a full coverage by standards, being either European harmonised standards or normative documents referring to international standards on which the Measuring Instruments Committee has advised positively;
- the New Legislative Framework gives conformity assessment procedures which are very close to those in MID. A proposal to recast the MID adapting it to the New Legislative Framework will be presented soon;
- the quality of market surveillance appears as an important concern of industry and it is an area where most authorities recognise that their effort until recently has been limited;
- there appear to be inconsistencies among the notified bodies in terms of interpreting MID requirements and other guidance as well as differing levels of capacity; as well as the rather restrictive interpretation by notified bodies of the guidelines of WELMEC posing constraints to using alternative approaches to conform to the essential requirements;
- there is no evidence that the implementation of the MID has generally disadvantaged SMEs – although in some specific sectors (weighing instruments and fuel dispensers) the lack of rules distinguishing individual components (sub-assemblies) may disadvantage some SMEs.

Repeal of Old Approach Directives: Directive 2011/17/EU repeals 8 Old Approach directives in the area of legal metrology: one directive in 2011 (ship tanks) and the other seven in 2015 respectively (water meters, weights (2x), alcohol meters (2x), tyre pressure gauges, mass of grain) respectively. The directive provides for a 10 year transition period allowing placing on the market of instruments carrying the harmonised markings based on existing certificates, i.e. until 2021 and 2026 respectively.

- **Conclusions on the repealed Old Approach Directives**: currently, there is **no reason for the Commission to propose adding sectors** covered by the 8 repealed directives to the Measuring Instruments Directive 2004/22/EC:
- new barriers due to new national rules are not to be expected because such national rules need to be based on international standards and therefore will in effect be equivalent;
- no existing trade barriers or other overriding reasons have appeared that would justify harmonisation;
- SMEs report low barriers to trade due to multiple testing which no longer would seem to be justified under the obligations of the Mutual Recognition Regulation (EC) No 764/2008;
- there is virtually no support for harmonisation from organised industry and no mention of trade barriers;
- organised consumers do not consider these sectors of legal metrology as a priority;
- there are no significant changes in 2010 to the impact assessment underlying the Commission proposal for repeal in 2008;
- the long transition period will allow current certificates to be recognised up till 2021 for ship tanks and up till 2025 for other instruments.

Further action: the Commission services will pursue the following priorities:

- introduce the New Legislative Framework into the Measuring Instruments Directive for which a legislative proposal is expected during 2011;
- enhance information, cooperation and guidance to notified bodies and authorities with the aim of ensuring a coherent application of the Directive;
- coordinate market surveillance notably in the form of common actions in order to more efficiently apply resources which are available for market surveillance;
- aid stakeholders in establishing guidance on transition of petrol pumps which, although formally outside of Directive, is considered to be an important point by industry;

Lastly, the Commission will carry out an impact assessment of any suggestions for new proposals with stakeholders in line with smart regulation whereby full account is taken of all alternatives to regulation and where possible make any necessary changes under the terms of the Directive, i.e. by means of comitology.