Basic information

2004/0248(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Nominal quantities for prepacked products **Subject** 2.10.03 Standardisation, EC/EU standards and trade mark, certification, compliance 3.40.13 Food industry 4.60.02 Consumer information, advertising, labelling 4.60.06 Consumers' economic and legal interests	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
IMCO Internal Market and Consumer Protection	TOUBON Jacques (PPE-DE)	23/01/2007

Former committee responsible	Former rapporteur	Appointed
IMCO Internal Market and Consumer Protection	TOUBON Jacques (PPE-DE)	30/11/2004

Former committee for opinion	Former rapporteur for opinion	Appointed
ITRE Industry, Research and Energy	PURVIS John (PPE-DE)	27/01/2005

Council of the European Union

Council configuration	Meetings	Date
Competitiveness (Internal Market, Industry, Research and Space)	2751	2006-09-25
Competitiveness (Internal Market, Industry, Research and Space)	2769	2006-12-04
Agriculture and Fisheries	2815	2007-07-16

European Commission

Commission DG	Commissioner
Internal Market, Industry, Entrepreneurship and SMEs	VERHEUGEN Günter

Key events

Date	Event	Reference	Summary
25/10/2004	Legislative proposal published	COM(2004)0708	Summary
27/10/2004	Committee referral announced in Parliament, 1st reading		
12/12/2005	Vote in committee, 1st reading		Summary
16/12/2005	Committee report tabled for plenary, 1st reading	A6-0412/2005	
01/02/2006	Debate in Parliament		
02/02/2006	Decision by Parliament, 1st reading	T6-0036/2006	Summary
02/02/2006	Results of vote in Parliament		
18/04/2006	Modified legislative proposal published	COM(2006)0171	Summary
04/12/2006	Council position published	13484/1/2006	Summary
18/01/2007	Committee referral announced in Parliament, 2nd reading		
12/04/2007	Vote in committee, 2nd reading		Summary
16/04/2007	Committee recommendation tabled for plenary, 2nd reading	A6-0144/2007	
09/05/2007	Debate in Parliament		
10/05/2007	Decision by Parliament, 2nd reading	T6-0175/2007	Summary
10/05/2007	Results of vote in Parliament		
16/07/2007	Act approved by Council, 2nd reading		
04/09/2007	End of procedure in Parliament		
05/09/2007	Final act signed		
21/09/2007	Final act published in Official Journal		

Technical information	
Procedure reference	2004/0248(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/6/44675

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary

Committee opinion	ITRE	PE355.532	26/04/2005	
Committee report tabled for plenary, 1st reading/single reading		A6-0412/2005	16/12/2005	
Text adopted by Parliament, 1st reading/single reading		T6-0036/2006	02/02/2006	Summary
Committee draft report		PE384.490	05/02/2007	
Amendments tabled in committee		PE386.479	09/03/2007	
Committee recommendation tabled for plenary, 2nd reading		A6-0144/2007	16/04/2007	
Text adopted by Parliament, 2nd reading		T6-0175/2007	10/05/2007	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	15542/2006	01/12/2006	
Council position	13484/1/2006	04/12/2006	Summary
Draft final act	03621/2007/LEX	05/09/2007	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2004)0708	25/10/2004	Summary
Document attached to the procedure	SEC(2004)1298	25/10/2004	Summary
Commission response to text adopted in plenary	SP(2006)1012	09/03/2006	
Modified legislative proposal	COM(2006)0171	18/04/2006	Summary
Commission communication on Council's position	COM(2006)0811	12/12/2006	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2007)0384	27/06/2007	Summary
Follow-up document	COM(2016)0438	04/07/2016	Summary
Follow-up document	SWD(2016)0219	04/07/2016	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0379/2005 OJ C 255 14.10.2005, p. 0036-0038	06/04/2005	

Additional information		
Source	**Document**	**Date**
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Directive 2007/0045 OJ L 247 21.09.2007, p. 0017	Summary

Nominal quantities for prepacked products

2004/0248(COD) - 25/10/2004 - Legislative proposal

PURPOSE : to laying down rules on nominal quantities for pre-packed products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC

LEGISLATIVE ACT : Directive of the European Parliament and of the Council.

CONTENT : Following a wide consultation of stakeholders and an impact assessment, the Commission proposes to repeal Directives 75/106/EEC and 80/232/EEC to abolish nominal quantities of pack sizes for most sectors and in order to maintain obligatory nominal quantities for a very limited number of sectors and to include them in a single piece of legislation.

Following the Cidre-Ruwet case in the European court of Justice, the Commission examined this legislation.

It is proposed to repeal all existing pack sizes currently under optional harmonisation in Directives 75/106/EEC and 80/232/EEC, and to maintain only in very specific sectors some of the existing regulation based on total harmonisation (i.e. excluding national rules). Consequently, the proposal introduces total harmonization, thereby prohibiting Member States from legislating pack sizes, except those regulated in EC legislation.

However, in certain sectors such deregulation could result in disproportionately heavy extra costs, especially for small and medium sized enterprises.

The mandatory sizes are maintained for those sectors that currently have mandatory regulation or have commitments from the Commission to reinstate previously mandatory sizes.

However, in the light of experience, where fixed sizes are maintained, the following modifications are introduced:

- The definition used for sectors currently covered may have to be revised to remain coherent with legislative developments in the field of agriculture: addition of aromatised and liqueur wines, now included in the regulations on wine;

- Where a few sizes account for most sales to consumers, there is no reason to fix sizes that are sold exclusively for professional use and "mini" sizes (e.g. 3, 4, 5cl for spirits). Only sizes sold to consumers within a limited interval should be fixed, while the sizes outside that interval should become free.

Furthermore, the Commission proposes to maintain the current provisions on pack sizes of products put up in aerosols contained in Directive 75/324 /EEC. However, in contrast to regulation of pack sizes, which aims to protect legitimate economic interests, aerosols sizes and filling levels are dictated by assurance of safety and will consequently in the future be included in a revised Council Directive 75/324/EEC relating to aerosol dispensers.

In order to promote transparency all nominal quantities for pre-packed products will be included in a single legislative text. This requires repealing Directive 80/232/EEC and Directive 75/106/EEC, as the nominal quantities will be included in the proposed Directive.

As the metrological requirements for liquid products currently set out in Directive 75/106/EEC are the same as those in Directive 76/211/EEC they will be covered by this Directive, which is amended to widen its scope in order to include these products.

Nominal quantities for prepacked products

2004/0248(COD) - 12/12/2006 - Commission communication on Council's position

The Commission supports the common position, subject to the joint Council/Commission declarations mentioned below:

- according to the Treaty and the jurisprudence of the Court of Justice, Member States applying the phasing-out may not refuse, prohibit or restrict the placing on the market of products legally marketed in another Member State on grounds relating to the nominal quantities of the package;

- Member States, that currently do not apply national sizes in the sectors to which the phaseout applies, will not introduce new rules for nominal quantities of packages.

Nominal quantities for prepacked products

2004/0248(COD) - 04/12/2006 - Council position

The proposal has become a test case for the Commission’s strategy on Better Regulation for growth and jobs in the European Union and for the simplification of the regulatory environment.

The Council supported for the Commission’s modified proposal on condition that for certain sectors Member States would be allowed to maintain currently existing national sizes for domestic production in some sectors for a transitional period.

It also reflects partially the opinion of the European Parliament at first reading. Some of Parliament's amendments were already incorporated in the Commission's amended proposal. A number of Parliament’s amendments have been reflected either in full or in part in the common position.

All modifications to the Commission's amended proposal introduced by the Council in its common position have been accepted by the Commission.

Neither the Council nor the Commission could, however, accept the European Parliament amendments to harmonise sizes in sectors where this is currently not the case, namely milk, butter, coffee, pasta, rice and brown sugar.

The Council has introduced a transitional period of **five years** after the entry into force of the Directive, during which time the currently existing national sizes can be maintained for domestic production of **milk, butter, coffee, dried pasta and rice** as well as a period of **six years for white sugar**.

The Council considers that its common position is well in line with the original objectives of the proposed Directive.

Nominal quantities for prepacked products

2004/0248(COD) - 25/10/2004 - Document attached to the procedure

COMMISSION'S IMPACT ASSESSMENT

Legislation to improve consumer information in the labelling of pre-packaged products.

For further information about this issue, please refer to the summary relating to the Commission’s proposal COM(2004)0708.

1- POLICY OPTIONS AND IMPACTS

The Commission identified five policy options available to reach the objectives.

1.1- Option 1: **Sizes fixed at the national level were the situation as it existed before the Cassis de Dijon case law clarified the situation.** As a general rule, Member States must accept sizes that are legally marketed in any Member State.

1.2-Option 2: **Sizes fixed at the Community level currently exist for some products (wine, spirits)**. The range does not contain too many sizes but nevertheless contain sufficient sizes so as not to hamper demand. Existing ranges contain about 15 sizes.

1.3-Option 3: **Limited range of sizes fixed at the Community level contains only the most sold sizes and excludes any other sizes within this range.** Outside the range sizes would be free.

1.4-Option 4: **Free sizes to allow producers to pack in any size in function of demand without interference from any authority.** This option would allow current practices based on national sizes to continue.

1.5- Option 5: **Voluntary standardisation in the context of free sizes allows stakeholders to standardise package sizes where it is deemed useful.**

Economic impact: Intra-EU trade is not hampered in any of the alternatives established atthe Community level. However, fixed sizes established at the national level would hinder trade on the EU market. Extra EU trade is hindered if sizes are established at the national level, notably disadvantaging importers who would need to adapt their sizes to different markets.

Innovation on sizes can be achieved under all alternatives with the exception of fixed sizes.

Economies of scale for SMEs are best assured under (limited) fixed sizes, especially if, as is currently the case, only a few sizes account for most sales and the public is happy with this. Voluntary standardisation could also be a means available to stakeholders for accommodating the needs of retailers optimising shelf space, consumers demanding choice and SME’s achieving scale economies.

New entrants are probably best served where sizes are free as this gives an easy way of distinguishing a new product. Therefore, new entrants may have more difficulty where sizes are fixed.

Collusion in its tacit form, such as feeling pressure to follow the market leader, may be more probable where markets are more transparent for large players so that ‘loyal competition’ can be forced. Fixed sizes make markets more transparent.

Social impact: Better choice for consumers occurs where sizes are free, because producers can immediately respond to changes in consumer tastes and demand. Fixed sizes reduce choice to the minimum, because a change of law is required before a size can be adapted. In the case of national sizes, there already exists much variety – sizes from elsewhere in the EU increase the choice.

New instruments ensure that liberalisation does not dismantle consumer protection, e.g. the relevance of unit pricing increases where there is more choice. If competing products are on offer only in one size, as often happens in the case of fixed sizes, the unit price will not offer any information.

It is contended by some that consumers with reduced eyesight may be better catered for when there is less choice of sizes. Voluntary standardisation could address the needs of these consumers in a more comprehensive way.

Portions adapted to the needs of people with diabetes would require free sizes. Diabetes is on the rise and affects over 5% of the population, who must inject a fixed dose of insulin for each quantity of carbohydrates consumed. Free sizes would allow packing in sizes that are easy to use by people with diabetes.

Environmental impact: The aims of the Packaging / Packaging Waste directive (PPW) must be achieved, regardless of whether sizes are regulated or not. In order to reuse packaging material such as glass, size is only one prerequisite next to the construction, material and dimension of the package and the organisation of the reuse chain. Light glass is said by industry to reduce transport costs and can only be efficiently produced if economies of scale can be achieved. The case for lightweight glass coincides with economies of scale, even if sizes would be free.Voluntary standardisation could possibly have a positive effect, if light glass could be the agreed packaging material.

CONCLUSIONS: The impact assessment has shown free sizes to be the most favourable option as it allows full competition for industry and freedom of choice for consumers without compromising the environmental aims of the Community. Furthermore, it has become clear from the Cidrerie-Ruwet ruling that national legislation increases confusion on the internal market, while fixed sizes limit the flexibility to adapt products to new consumer needs, which is the established market practice in most sectors. Deregulation is justified in the light of the increased transparency offered by Community consumer legislation requiring the indication of unit pricing and prohibiting misleading practices and advertising.

Nevertheless, it also appeared that there might be sectors for which regulation on the basis of total harmonisation should be maintained. Fixed sizes may allow to offset disproportional buyer pressure from large distributors, like supermarkets, on small and medium sized enterprises and a sudden change to free sizes would cause industry to incur excessive costs, notably in sectors with structural low demand growth that are accustomed to fixed sizes. Mandatory ranges thus could be justified on this basis for the sectors where the Community regulator had already fixed harmonised mandatory sizes: i.e. wine, spirits, soluble coffee and white sugar. In these sectors it would suffice to fix by law a limited number of sizes which are most sold to consumers.

2- FOLLOW-UP

To the extent that monitoring of the results is required, this would apply only to the sectors with fixed sizes. For these sectors the Commission services would monitor developments and assess data, concerning the costs and benefits at sector level in order to see whether the exception of fixed EC sizes is still needed. It would seem that stakeholders, notably industry and consumers, are best placed to provide input required for the evaluation and ex post monitoring criteria.

Nominal quantities for prepacked products

2004/0248(COD) - 25/09/2006

Nominal quantities for prepacked products

2004/0248(COD) - 27/06/2007 - Commission opinion on Parliament's position at 2nd reading

On 10 May 2007, the European Parliament adopted a compromise package which had been agreed with the Council in view of reaching a second reading agreement.

The Commission accepts all amendments. They concern a recital on more voluntary use of unit pricing, a recital and an article on the monitoring of the phasing out of national sizes and a recital explaining the situation of British bread under the new directive.

The conclusion of the compromise package has been facilitated by a declaration which the Commission made on the disposal of stocks of wines and spirit drinks.

Nominal quantities for prepacked products

2004/0248(COD) - 02/02/2006 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drawn up by Jacques **TOUBON** (EPP-ED, FR) and made some amendments to the Commission’s proposals:

- a new recital states that astudy devoted to the impact of the Directive on the most vulnerable consumers (the elderly, the visually impaired, the disabled, consumers with a low level of education, etc.) has confirmed the theory that deregulation of packaging formats would entail major drawbacks

for these consumers, while triggering a reduction in the number of brands offered to the consumer and hence reducing choice and, consequently, competition in the market;

- the number of goods for which the Commission was proposing to retain mandatory package sizes as a derogation from the general policy of deregulation (spirits, wines, soluble coffee, white sugar and most products sold in aerosols) should be extended to include drinking milk, butter, ground or unground roasted coffee, dried pasta, rice and brown sugar. Products such as these, as staples of the average consumer's diet, should only be sold in a restricted number of sizes;

- milk will be sold only in 100, 200, 250, 500, 750, 1000 and 1500 millilitre containers, or, where the system of imperial units of measurement is in force: on the interval from one third of a pint - 6 pints only the following 8 sizes: Pint: 1/3-1/2-1-2-3-4-5-6;

the directive shall not apply to pre-packed bread, spreadable fats or tea, for which national rules on nominal quantities shall continue to apply.

- the Directive will not apply to the products listed in the Annex when sold in duty-free shops for consumption outside the EU;

- the Commission shall submit a report on the implementation and effects of this Directive to the European Parliament, the European Economic and Social Committee and the Committee of the Regions, in eight years and every ten years thereafter. Where necessary, the report will be accompanied by a proposal for revision;

- nominal quantities within the intervals covered by the Annex that are not listed in the Annex but were marketed immediately prior to the entry into force of the Directive may continue to be placed on the market until stocks are exhausted, for up to 18 months after the entry into force of the Directive.

Nominal quantities for prepacked products

2004/0248(COD) - 05/09/2007 - Final act

PURPOSE: to lay down rules on the nominal quantities for products put up in pre-packages.

LEGISLATIVE ACT: Directive 2007/45/EC of the European Parliament and of the Council laying down rules on nominal quantities for prepacked products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC.

BACKGROUND: current Community legislation sets out nominal quantities for a number of liquid and non-liquid prepacked products in order to ensure the free movement of products across the EU’s internal market. For most of these products, “national” nominal quantities were allowed to exist alongside Community nominal quantities. For some products, however, nominal quantities were fixed to the exclusion of any national nominal quantities.

A number of recent events have led the Community to believe that such a system was no longer effective nor feasible. Firstly, changes in consumer preferences combined with innovations in prepacking and retailing at Community and national levels made the existing system inflexible. A second development concerned the European Court of Justice “Cidrerie Ruwet” Judgement which prohibited Member States from preventing the marketing of a repackaging having a nominal volume not included in the Community range.

Further, an impact assessment indicated that, in many sectors, free nominal quantities increase the freedom of producers to provide goods according to consumer tastes and enhance competition as regards quality and price on the internal market. In other sectors though it is more appropriate to retain mandatory nominal quantities.

CONTENT: based on the above reasoning this Directive has been adopted, in order to lay down new rules on the nominal quantities for products put up in pre-packages. Unless otherwise specified it will apply to all prepacked products and pre-packages.

Further, the Regulation states that save as otherwise provided for, the Member States may not, on grounds relating to the nominal quantities of the package, refuse, prohibit or restrict the placing on the market of prepacked products. Member States, which currently prescribe mandatory nominal quantities for milk, butter, dried pasta and coffee may continue to do so until 11 October 2012. Member States, which currently prescribe mandatory nominal quantities for white sugar may continue to do so until 11 October 2013. Obligatory nominal quantities for a very limited number of goods, mainly wine and spirits, will be maintained.

In order to promote transparency, all nominal quantities for prepacked products will be set out in this legislative act. Directive 75/106/EEC and 80/232 /EEC are therefore repealed.

ENTRY INTO FORCE: 11 October 2007.

TRANSPOSITION: 11 October 2008.

APPLY: 11 April 2009.

Nominal quantities for prepacked products

2004/0248(COD) - 10/05/2007 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a resolution drafted by Jacques **TOUBON** (EPP-ED, FR) and made some amendments to the Council's common position. These were the results of a compromise deal between the Council and Parliament:

-An additional part recital states that Member States who have not already done so should consider whether to transpose Directive 98/6/EC voluntarily to certain small retail businesses as well;

-Since the maintenance of mandatory nominal quantities should be regarded as a derogation, except in the wine and spirits sector, which has specific features, it should be periodically reassessed in the light of experience and in order to meet the needs of consumers and producers. For these sectors, when the Commission ascertains a disturbance of market conditions and/or a destabilisation of consumer behaviour, particularly that of the most vulnerable consumers, it may authorise Member States to maintain transitional periods and in particular to maintain the most sold mandatory range sizes.

-In Member States where prepacked bread forms a high proportion of regular consumption, there is a strong correlation between pack size and bread weight. As with other prepacked products, existing pack sizes for prepacked bread traditionally in use will not be affected by the Directive and can continue to be used;

-the Commission shall observe market developments after transposition, and shall consider, in the light of the results of that monitoring, applying follow-up measures to the Directive by maintaining mandatory packing sizes for the goods referred to in Article 2(2) (milk, butter, dried pasta and coffee and white sugar.)

Nominal quantities for prepacked products

2004/0248(COD) - 18/04/2006 - Modified legislative proposal

The Commission accepted 8 of the amendments proposed by Parliament. These are as follows:

- the amendment stating as a fact that consumer protection has improved by generic directives which have been adopted after the fixed sizes came into being;

- the introduction of a reference to the fact that some fixed mandatory nominal quantities are to be retained for the time being;

- a recital which is currently standard for transposition of directives.

- an amendment clarifying that the rules on fixed nominal quantities do not apply to sales in duty-free shops;

- the replacement of the 20 year sunset clause for the fixed nominal quantities for certain sectors by way of derogation by a clause asking the Commission to review the need for derogations;

- the deletion of a clause as the mandatory nominal quantities for aerosol dispensers will be abolished by the new article;

- the deletion of the request to Member States to prepare a table of correspondence;

- the introduction of a review clause requiring regular reporting by the Commission and this new obligation is the consequence of abolishing the sunset clause.

5 amendments were accepted in principle, relating to the following:

- an information campaign should be launched about unit pricing;

- introduction of the concept of a review clause. The Commission agrees with the review clause, but suggests a wording more consistent with the basic philosophy of the proposal that fixing mandatory nominal quantities is a derogation to the principle of deregulation; furthermore, the recital should clarify that for those sectors where nevertheless mandatory nominal quantities are fixed, only those quantities should be mentioned that are most sold to consumers;

- the Commission shares Parliament’s concern on the quality of labelling of quantity relating to the

implementation of Directive 76/211, Annex 1, point 3 on metrological requirements for pre-packed products. However, the Commission does not share the idea expressed by the Parliament in its amendment that fixed nominal quantities protect vulnerable consumers;

- one amendment intends to delete fixed nominal quantities for products sold in aerosol dispensers. The Commission agrees, but the wording of the amendment should be brought technically into line with the terms used in the Aerosols Dispenser Directive 75/324/EEC;

- Parliament adds 2 more sizes to the range for spirits, which has also been requested by industry. The Commission agrees. However, in order to align the terminology to the Council Regulation on Spirit Drinks (Reg. 1576/89), the term “Spirits” used by Parliament should be replaced by “Spirit drinks”.

The Commission rejected 20 amendments, including the following:

- the Commission does not accept the amendment saying that a “study devoted to the impact of the directive” shows the relevance of fixed sizes for vulnerable consumers. The impact study by EP did not make this point convincingly. Furthermore, vulnerable consumers do not become less vulnerable by mandatory rules on pack-sizes. Seeing a package in itself does not mean knowing the actual contents, as perception is strongly influenced by the packing material (tetra-pack, plastic, glass), the type of container (one time use, reusable) and the form of the pack (round, square). Consumers must therefore read contents indications.

- Parliament exempts a number of sectors from the scope in Article 1 of the Directive and states that for these sectors national legislation shall continue to apply. The Commission disagrees because there is no evidence for the need to regulate these sectors. Furthermore, the Directive should not jeopardise the concept of the Internal Market by allowing national derogations that could in any case not be applied to products legally manufactured or placed on the market in another Member State.

- Parliament also introduces a transitory regime for those products for which Parliament proposes to introduce regulation regarding mandatory nominal quantities. As the Commission rejects the idea of regulating new sectors, it also opposes the provision for a transitional period.

- One amendment introduces mandatory nominal quantities sizes for drinking milk, for which currently there are no mandatory sizes fixed at the EU level. Some Member States have national ranges, either mandatory or voluntary for home producers. But national law is never applied to products legally manufactured or placed on the market in other Member States. No sound reasons have been forwarded justifying the need to introduce regulation at Community level concerning mandatory nominal quantities for milk products. For the same reasons, the Commission rejects amendments introducing mandatory sizes for five new sectors, for which currently there are no mandatory sizes fixed at the EU level. The Commission also rejects the amendments reflecting UK mandatory nominal quantities reflecting the pints for milk, as well as the amendment adding the two values of 300 and 330 ml, which are used in Sweden, into the range for drinking milk.

The Commission goes on to state that in the framework of the regulatory review of the vertical harmonization directives on soluble coffee and white sugar at the end of the 1990ies, the Commission proposed to abolish existing ranges of nominal quantities, but Parliament was opposed. In conciliation, the vertical directives were finally modified, with the Commission accepting to propose nominal quantities for these products in the horizontal legislation on nominal quantities for pre-packed products. Consequently, when in 2004 the Commission introduced its current proposal, proposing to abolish regulation of nominal quantities, it made an exception for these products. The commitment of the Commission concerned also the soluble chicory but in the meantime this sector has requested not to have mandatory nominal quantities.

A survey by the Commission services in December 2005 shows that a majority of Member States no longer have regulation or no longer enforce existing national regulation for these sectors. In the absence of strong reasons pleading for reintroduction of mandatory nominal quantities for these products, and in line with the new policy emphasis on simplification and better regulations, the Commission proposes to suppress the definitions of “white sugar” and “soluble coffee” in the Annex.

Nominal quantities for prepacked products

2004/0248(COD) - 04/07/2016 - Follow-up document

This Commission report concerns the evaluation of three Directives that make up the legal framework for pre-packaging:

- Directive 75/107/EEC on bottles used as measuring containers, which provides for the free circulation of ‘3-marked’ bottles;
- Directive 76/211/EEC on making up pre-packaged products by weight or volume, which concerns the quantity indicated on pre-packed products and guarantees the free circulation of ‘e-marked’ pre-packages; and
- **Directive 2007/45/EC** on nominal quantities for pre-packed products, which prohibits Member States from regulating pack/bottle sizes up to 10 l or 10 kg and lays down mandatory EU sizes for wines and spirits; it applies to all pre-packed products.

Market size: the Commission recalled that according to estimates, pre-packaging accounts for an estimated EUR 170 billion in turnover and around **EUR 34 billion in added value** across the EU. This represents 12 % of total added value in the main sectors in which it takes place (food and beverages, pet food, chemicals, paints and fertilisers, detergents, cosmetics and glass bottle manufacture), the equivalent of **0.3 % of EU GDP**. There are about **300 000 companies** in these sectors, most of which are small and medium-sized enterprises (SMEs) with an average of 17.7 employees each. Within these sectors, an estimated 640 000 people are employed full-time in pre-packaging; this accounts for 0.**3 % of EU employment.**

Evaluation: the Commission took on an external contractor to evaluate the functioning of the Directives. The evaluation used the Commission’s standard evaluation criteria: effectiveness, efficiency, coherence, relevance and EU added value.

Directives 75/107/EEC, 76/211/EEC and 2007/45/EC support the internal market, because they foster competition in the pre-packaging industry by providing a comprehensive legal framework and a basis for administrative cooperation. They have increased trust between market surveillance authorities.

The following issues are highighted:

- the fact that using (3-mark) measurement containers and fixed volume (e-mark) pre-packages is voluntary means that firms can choose what is most appropriate for their needs. Many small enterprises producing mainly for their home market value the mutual recognition that comes into play where the Directives are not used;
- the mandatory nature of the pack-sizes Directive guarantees freedom of choice and has led to a diversification of pack sizes. For wines and spirits, fixed EU sizes have protected SMEs that lack market power. The phasing-out of national provisions did not cause problems.

Alongside this favourable overall assessment, a number of **technical, sector-specific issues** have been raised as regards products sold by length, area or number, drained weight, larger batch definitions, provisions on the speed of production and sampling, viscose products in mass or volume, and wrappings included with pre-packages. Some of these fall outside the scope of the Directives and others remain unresolved internationally.

Conclusion and follow-up: the Commission considered that the evaluation has demonstrated that the EU legal framework for pre-packaging is fit for purpose and that the Directives are effective, efficient, relevant, coherent with other EU policies and have EU added value.

While the Commission considers that there is **no need to propose amendments**, it will discuss the results of the evaluation with stakeholders and follow them up in order to improve application of the Directives. It seeks to:

- promote the **exchange of good practice** between stakeholders and develop guidance taking into account the variations in national implementation;
- discuss with stakeholders the **issues raised as regards technical aspects and relevant international standards**, and take appropriate action, e. g. develop guidance;
- provide **more information to consumers** on the meaning of the 3-mark and the e-mark.

In order to promote the effectiveness of **market surveillance**, in particular on imports, administrative cooperation on the Directives will be enhanced through EU financial support for meetings of the competent authorities in line with Regulation (EC) No 765/2008.

Nominal quantities for prepacked products

2004/0248(COD) - 04/07/2016 - Follow-up document

The Commission presents a staff working document assessing the performance of the legal framework for pre-packaging that is governed by three Directives: Directive 2007/45/EC on nominal quantities for pre-packed products, Directive 75/107/EEC on bottles used as measuring containers and Directive 76/211/EEC on the making-up pre-packaged products (by weight or volume). The three Directives are closely related to one another. Their objectives are to enable free circulation (promoting internal market – the level playing field) of pre-packed products, contributing in turn to market growth and the competitiveness of EU industry. By means of coordinated market surveillance, consumers are guaranteed the quantities that are indicated on the packages whilst deregulation of sizes has improved consumer choice. In the case of wine and spirit drinks, the fixed pack sizes shield small business from demands for other bottle sizes by supermarkets and distributors, thereby improving competition.

This document assesses **whether the Directives in their current form are fit for purpose and meet their objectives** (effectiveness) at acceptable costs (efficiency), whether they are still relevant in relation to stakeholders needs and relevant to achieve the overarching political objectives, i.e. promoting the internal market and regulatory simplification with the least bureaucracy for SMEs, coherence with other EU policies and having EU added value. The evaluation covers the part of the production chain concerned with filling and labelling that are regulated by the directives. It builds on a report by an external consultant conducted during one year and ending on 29 July 2015

Findings: the Commission concurs with the consultant conclusions that **all three Directives continue to be relevant, that they are generally considered efficient and effective with significant value added for all stakeholder groups**. None of the three Directives impose significant administrative or compliance costs. At the same time, they are perceived as beneficial in terms of contributing to consumer protection, fostering competitiveness and facilitating the Single Market. The Directives are also coherent with and complementary to other legislation at EU and national level. As a result of this, there is widespread support from all stakeholder groups (industry, consumers and national authorities) for all three Directives. On the basis of his analysis, the consultant concluded that the Directives are “fit for purpose” and do not require fundamental reform.

However, the Commission highlights a number of issues raised by the consultant:

- different structures and interpretations across countries on how the Directives should be applied are leading **to variations in national implementation**;
- in relation to market surveillance, weakness in systematic information exchange between national authorities are leading to **lack of a coherent approach regarding imports** and lack of trust in the market surveillance system across the EU;
- there was a **lack of clarity related to technical aspects for specific industries** such as products sold by length, area or number, drained weight, larger batch definitions, provisions on the speed of production and sampling, viscose products in mass or volume, and wrappings with pre-packages;
- many consumers do not understand the **meaning of the e-mark** or are not aware of it.

The consultant suggested ways forward that include exchange of good practices, improvement in information and communication, expert discussions to clarify issues, and better explanations on the Commission website.

The Commission will consider these matters in its follow-up work, with the view to improve the application of the directives.