

Public consultation - Update for units of measurement directive

Subject : RESPONSE TO COMMISSION CONSULTATION

UK Metric Association

Attachment



UK metric association

Campaigning for a **single rational** system of measurement

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19 February 2007

European Commission
DG Enterprise and Industry (ENTR/H/6)
105, Avenue des Nerviens
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Belgium

Dear Sirs

Response to the Commission consultation on revising Directive 80/181/EEC (the "Units of Measurement" Directive)

I am writing on behalf of the UK Metric Association (UKMA) to give the Association's comments on the Commission Staff Working Document dated 22 December 2006 on the Units of Measurement Directive (80/181/EEC). Our response is attached to this letter.

In this response we attempt to deal in detail with the specific questions posed in the Working Document, but we should like to emphasise that these issues need to be seen in a wider context.

We believe that the original ambition of Directive 80/181/EEC was that there should be a single legal system of measurement throughout the European Union (formerly Community), and that any exemptions or derogations from this principle should be purely transitional to enable stakeholders to adapt in an orderly fashion. Any agreements made with third party states (principally the USA) on the basis of reciprocity to safeguard the interests of exporters should have no bearing on the purely transitional nature of the arrangements to help stakeholders to adapt.

This objective of a single legal system is also fully in accordance with the UK's own "Magna Carta" (1215) - an early example of a Bill of Rights, which called for "one system throughout our kingdom."

It appears to us therefore that some of the suggestions contained in the Working Document are a major retreat from the original ambitions of the Directive. We are particularly concerned at the proposal to extend yet again the use of "supplementary indications" on an unrestricted basis - whether for a further period or indefinitely.

www.ukma.org.uk

Patrons: The Rt Hon The Lord HOWE of Aberavon, CH, QC;
Ian TAYLOR, MBE, MP; The Rt Hon Lord TAVERNE; Dr Nick PALMER, MP



UK metric association

We are also very concerned at the reluctance of the UK Government to fulfil its obligation to "fix a date" for ending the "four exemptions" (especially, the mile, yard, foot and inch for road signs, speed and distance measurement). As you will be aware, the other Member State affected, the Republic of Ireland, has already easily and economically fulfilled this obligation with no adverse consequences. We feel that the UK Government needs to be reminded of this obligation and encouraged to fall into line.

The UK Government claims to have a policy "that the United Kingdom should - in stages - switch from imperial to metric units of measurement for an ever-increasing range of uses. That policy continued to apply when the UK joined the European Economic Community and *accepted obligations to complete metrication according to an agreed timetable* (depending on the uses in question)" (quoted from a letter dated 15 September 2004 from Prime Minister Tony Blair to Lord Howe of Aberavon - our emphasis).

However, in practice, the UK Government now appears to be moving towards an indefinite "two systems" policy, and is even demanding that the "four exemptions" should cease to be provided for by the European Union. In effect the UK Government is seeking the abandonment of the original purpose of the Directive.

We cannot believe that the Commission would countenance such an outcome, and we therefore ask the Commission to adopt the proposals outlined in the attached document.

If it would serve any purpose, representatives of the Association would be pleased to travel to Brussels to meet with you to discuss our representations and answer any questions arising.

I enclose, for your information, two publications produced by UKMA:

A very British mess.

A response to the National Standardisation Strategic Framework

Metric signs ahead

The case for converting road sign to metric units

Yours sincerely

Derek Pollard
Secretary

Enc. UKMA response on the revision of Directive 80/181/EEC
"A very British mess"
"Metric signs ahead"

Response by the UK Metric Association to the Commission consultation on revising Directive 80/181/EEC (the "Units of Measurement Directive")

Purpose of this document

This response by the UK Metric Association (UKMA) gives the Association's comments on the Commission Staff Working Document dated 22 December 2006 on the Units of Measurement Directive (80/181/EEC).

Status of UKMA

UKMA is an independent, non-party political, single issue organisation which advocates the full adoption of the international metric system ("Système International" - SI) for all official, trade, legal, contractual and other purposes in the United Kingdom as soon as practicable. We also campaign for better consumer protection through accurate and consistent use of metric units of measurement in order to achieve price transparency. UKMA is financed entirely by membership subscriptions and personal donations.

This response was approved by a meeting of its Committee on 12 February 2007.

Preliminary

We attempt below to answer the specific questions posed in the consultation paper but we begin with some general comments. Our answers are based on our experience of the situation in the UK, but we believe that the issues covered by the paper are also relevant to all Member States.

UKMA believes that the paramount principle of the revised Units of Measurement Directive is that there should be a single system of measurement that is understood and used exclusively throughout the EU for all purposes. We trust that we do not need to rehearse the arguments for such a system as they are set out eloquently in the preamble to the Directive and quoted in the consultation paper:

"Whereas units of measurement are essential in the use of all measuring instruments, to express measurements or any indication of quantity; whereas units of measurement are used in most fields of human activity; whereas it is necessary to ensure the greatest possible clarity in their use; whereas it is therefore necessary to make rules for their use within the Community for economic, public health, public safety or administrative purposes;"

All exceptions to this fundamental principle result in potential cost and/or confusion to consumers or producers, and so should be as limited as possible in scope, and used only where necessary to meet international obligations and the need to give stakeholders sufficient time to adapt in an orderly manner.

Moreover, the recent growth of internet shopping, in which goods are described, advertised and sold across national boundaries, emphasises the need for common standards of measurement.

We therefore support the exclusive use of SI and SI-recognised units of measurement. We are most concerned that further extension of the use of

supplementary indications will encourage the persistence, not the phasing out of incompatible units - especially imperial and "US customary" units - and we instead wish to see these phased out as soon as practicable.

As we point out in response to Question 7 below, we are particularly concerned that, if supplementary indications are authorised permanently on an unrestricted basis, it will further institutionalise their use in areas that are wider than envisaged in the Commission's Working Document. For example, it will lead to a persistence of the manufacture and import of dual scale equipment, and the specifying of such equipment in procurement contracts. In this case, the perverse result would be that the EU will have ensured that the "two systems" muddle which prevails in the UK will become permanent. This would be a gross disservice to UK and other EU citizens who live in the UK.

(For the avoidance of doubt, all further references to SI units in this document also include units (such as the litre and the hectare) recognised by the Bureau International des Poids et Mesures (BIPM) for use with SI units).

Comments on the questions raised in the consultation paper

1. Should the "katal" be introduced into Directive 80/181/EEC?

We agree that the katal should be introduced as an SI derived unit.

2. Should the use of SI-indications in specific uses be left to other directives than Directive 80/181/EEC?

We do not think it necessary to prioritise the use of SI units in Directive 80/181/EEC, and this can therefore be left to other Directives as appropriate.

3. Should arbitrary units be included in Directive 80/181/EEC if supplementary indications are not allowed?

Article 3.1 of the Directive defines "supplementary indications" as "one or more indications of quantity expressed in units of measurement not contained in Chapter I of the Annex accompanying an indication of quantity expressed in a unit contained in that Chapter" (our underlining). This means that "arbitrary units", if used in isolation, are by definition not "supplementary indications." The ending of the authorisation for supplementary indications will therefore have no bearing on the status of "arbitrary units".

If the Commission believes that there will be a future need for "arbitrary units", then we would suggest that there should be a new provision delegating authority to the Commission, after appropriate consultation, to authorise new "arbitrary" units as legal, primary units, provided that

- there is no available legal unit as listed in Chapter I of the Annex; and
- they have been approved by a recognised international authority such as the International Organisation for Standardization, the BIPM or the United Nations Organisation or any of its agencies.

4. Should ratios be included in Directive 80/181/EEC if supplementary indications are no longer allowed?

We agree that ratios formed from SI units should continue to be authorised (as in Chapter 1 of the Annex of Directive 80/181/EEC). However, we are opposed to the continued use of indications such as "miles per gallon", "miles per litre" or "pounds per square inch", formed wholly or partly from non-SI units. We therefore believe that any ratios used must be formed exclusively from SI units.

5. Should the exemption in Article 2b be maintained in Directive 80/181/EEC?

We believe that the medium term objective should be to renegotiate international conventions to achieve universal adoption of SI units for all purposes, including aviation and marine navigation. We appreciate that this cannot be achieved in the short term but would suggest that the Commission should declare an objective of achieving this within 10 years. With regard to rail transport, we can see no reason to continue to authorise non-SI units in respect of traffic within the EU. We therefore suggest that the reference to rail traffic in this Article should be deleted.

6. Should indications specific to certain sectors be included in Directive 80/181/EEC?

We think it undesirable in principle and generally unnecessary in practice to include "indications specific to certain sectors" in the Directive. This is because to do so would detract from the simplicity and certainty of a single system for all purposes. The use of inches (by some retailers, and centimetres by others) for computer and television screens is not helpful to the consumer, as these are frequently used to mislead rather than to inform. "Scoops" and "cups" (sometimes used in recipes with no standard definition) can equally well be expressed in millilitres (or by weight rather than volume). The use of inches in the UK for specifying domestic water piping is primarily descriptive rather than a precise unit of measurement. The industry standard is EN 1057, which of course uses exclusively SI units. In fact, the former ½ inch, ¾ inch and one inch pipes have been replaced by 12 mm, 15 mm and 22 mm pipes in trade catalogues, and imperial/metric connectors overcome any problems of incompatibility. See for example the following links:

http://www.diydata.com/materials/copper_pipe/copper_pipe.htm

or

<http://www.screwfix.com/app/sfd/cat/cat.jsp?cld=102639&ts=08206>

In any case, the issue of components and parts necessary to supplement or repair older equipment (such as plumbing systems) is adequately dealt with by the exemption contained within Article 4.

We therefore do not believe this is a genuine problem, and can only suppose that it has been invoked by opponents of metrication in order to confuse the debate. Where greater precision than a millimetre is required, there is no reason why it cannot be expressed as a decimal of a millimetre - e.g. 25.4 mm (which is the definition of an "inch" given in Chapter II of the Annex).

7. Should the use of supplementary indications in Article 3 in Directive 80/181/EEC be able to continue?

We are strongly opposed to any further extension of the use of supplementary indications beyond the end of 2009. This deadline has already been extended twice from 1989, and we feel that any substantial further extension will send a message that the EU has in practice abandoned its attempt to standardise on a single system of measurement.

The situation is particularly serious in the UK. Our understanding is that if the revised Directive "authorises" continued use of supplementary indications without qualification, Member States will have no legal power to prohibit their use - whether in the pricing and sale of "loose goods" from bulk or in quantity indication on packages. If our understanding is correct, this would be a major obstacle and setback to the programme of metrication in the UK.

Moreover, we have difficulty in understanding the reasoning in section 8 (on pp. 6-7) of the consultation paper. Although the majority of states in the USA have legislated to permit metric-only labelling for products not regulated at the federal level, the US Congress has failed to respond to the 2009 deadline for amending the Fair Packaging and Labeling Act (FPLA), which regulates most foodstuffs and some household goods at the federal level. It therefore does not seem plausible that the US Congress is more likely to respond if this deadline is postponed yet again or even withdrawn permanently. It is far more likely that the Congress will assume that the EU will never fully implement the Units of Measurement Directive, and therefore they need not change.

We would comment that labelling in SI units is not simply an EU standard: it is the **world** standard. We feel that any country which wishes to engage in international trade should be expected to at least recognise and accept (if not adopt) world standards.

With regard to the claim that the full implementation of 80/181/EEC will lead to a requirement for separate labelling for the EU and USA markets, we are deeply sceptical that this would lead to significant additional business costs, and we suggest that the Commission seeks independent evidence for and against this claim. It appears to us that for goods packaged in large production runs for export, a slight variation on the package labelling will have nil or negligible costs. For smaller production runs, the application of sticky labels to export consignments will similarly have negligible costs.

An example of how a medium sized American company has voluntarily adapted to separate labelling regimes is appended. We feel that this example demonstrates that the alleged problem of dual labelling has been grossly exaggerated.

However, in any case, we believe that there is another, simple solution to the alleged problem of separate labelling for the USA and EU markets. We would suggest that the best solution would be mutual recognition of each other's labelling rules **for imported products only** - that is, the EU would accept goods produced in the USA and dual marked in SI and US-customary units if, in return, the USA would amend its FPLA to permit metric-only labelling for goods imported from the EU.

Alternatively, as a conciliatory gesture, the EU could, for a limited period (say, five years) unilaterally accept goods produced in the USA and dual marked in SI and US-

customary units while at the same time seeking a reciprocal concession from the USA.

We would therefore suggest that there are two possible solutions to this alleged problem for exporters. The authorisation of supplementary indications could either be restricted to package labelling and product manuals only (and for no other purpose), or (preferably) it could be restricted to packaged goods for export to or from the EU. We develop these suggestions below.

Option (i)

If the Commission is minded to propose a general further period of allowing supplementary indications, we believe **that their use should be confined to quantity indication on package labels and in product manuals only**, and should not apply to the pricing of "loose goods" sold from bulk or to shelf labels. This should be made explicit in the wording of the revised Directive, and we would suggest the following revised wording of Article 3.2:

"2. The use of supplementary indications shall be authorised until [insert date] only for quantity indication on packaged goods and in product manuals (and for no other purpose)."

Option (ii) (preferred)

If the Commission agrees that this concession should be restricted to goods imported from or exported to a non-metric country, then we suggest the following wording of Article 3.2:

"2. The use of supplementary indications shall be authorised until [insert date] for quantity indication and in product manuals for packaged goods imported from a country which requires marking in units of measurement that are not or are no longer legal and to goods which are part of a consignment originally intended for export to a country which requires marking in units of measurement that are not or are no longer legal (and for no other purpose)."
[Renumber subsequent sections].

We do not think that it would be practicable or necessary for the Directive to require that supplementary indications should be correct. To do so would entail listing exhaustively all possible such indications (including scoops, cups and spoonfuls) and then defining them in terms of SI units. Whereas supplementary indications are not currently considered to be proper units of measurement (but are simply informal "indications"), to list and define them in the Directive would actually give non-SI units a legal status that they do not merit and do not currently enjoy. While we are obviously in favour of accurate product description and advertising and transparent pricing, we feel that this is best dealt with under Member States' legal provisions (such as the Trade Descriptions Act in the UK) rather than in the Directive.

In summary, our view on supplementary indications is as follows:

- (a) In principle, we believe that the derogation permitting supplementary indications should be allowed to lapse at the end of 2009.
- (b) We do not believe that dual marking for the EU and USA markets would impose a significant business cost.

- (c) If, nevertheless, supplementary indications are allowed for a further period, this should be limited to quantity indication on packaged goods and in product manuals and not extended to the marking, pricing or sale of "loose goods" from bulk.
- (d) If the Commission is minded to make a concession only to American and EU exporters who claim that dual marking is a significant business cost, this should be limited to goods imported from a country which requires non-SI marking and to goods which are part of a consignment originally intended for export from the EU to a country which requires non-SI marking.

8. Do market operators face any problems with the current system?

The consultation paper raises the question of what is "the scope of the Directive". Article 2(a) provides that it applies to "economic, public health, public safety (and) administrative purposes." We believe that the original intention was that this should be interpreted widely, whereas the absence of legal definitions of these terms has led to a narrower interpretation in some Member States. Although the third consideration in the preamble refers to the elimination of "barriers to trade" as the motivation for the Directive, the first consideration refers to "the greatest possible clarity in (the) use" of units of measurement "in most fields of human activity".

We believe that the "four exemptions" (listed in Chapter II of the Annex) obtained by the UK and Ireland contradict and undermine the clarity sought by the Directive. It is undesirable that different member states should use different units of measurement, as not only is this a barrier to understanding as between the peoples of different states, it is also a source of confusion and muddle within any state that tries to operate two incompatible systems at the same time.

The present situation in the UK undermines consumer protection, causes mistakes, waste and extra costs, complicates our children's education, leads to accidents and incomprehension, and disadvantages individuals who have difficulty in coping with two systems - including, of course, visitors to the UK. This situation is partly caused by lax enforcement of existing legislation but is also the result of the maintenance of the "four exemptions". We should therefore like to see these phased out as soon as possible.

With regard to Article 1(b) of the Directive, we are particularly concerned that the UK Government has made no progress in "fixing a date" for ending the use of the measurement units listed in Chapter II of the Annex. Indeed the UK Government has acted as though this Article were a permanent exemption from the requirement to mandate SI units for the purposes listed. For example, the Department for Transport maintains that the Government has no intention of fixing a date for converting UK road signs and speed limits to SI units. Similarly, in a recent consultation on revising the UK's Food Orders, the DTI did not include the option of permitting the dispensing of beer and cider in millilitres. Indeed, current legislation actually bans the use of metric units for the dispensing of draught beer and cider. We feel this is contrary to the spirit and intentions (if not the letter) of the Directive, and we would recommend that member states should be prohibited from banning the use of SI units.

UKMA therefore proposes that there should be a firm time limit placed on Article 1(b). Bearing in mind the need for a reasonable transition period, and in order to minimise any costs, we think that a period of five years from the coming into force of the revisions to the Directive would be more than sufficient. We therefore recommend

that the following additional sentence should be added at the end of Article 1(b) as follows:

"This date may not be later than 31 December 2014".

We also recommend an additional clause to be inserted in place of the existing (defunct) Clauses 1(c) and 1(d) as follows:

"(c) However, except as provided in Article 2(b), Member States may not prohibit the use of the units listed in Chapter I of the Annex."

Additional Comments

Finally, we should like to comment on what appears to be the position of the UK Government.

In a letter dated 10 January 2007, the UK Department of Trade and Industry (DTI) indicated its intention to argue that, in accordance with the principle of subsidiarity, matters such as road signage within the UK should be regarded as purely domestic matters for the UK authorities alone. **We strongly disagree that the principle of subsidiarity should apply in this case.**

Although Great Britain is separated from the European continent by the English Channel, its road system is not isolated from the rest of Europe. There is also a land border between Northern Ireland and the Republic. We have estimated (UKMA, 2006, paragraph 4.32) that 2 million drivers from other EU countries drive annually on UK roads, and almost all of these will have no familiarity with or understanding of the imperial units authorised in the UK. Moreover, there is no requirement for foreign registered vehicles to have miles and miles per hour (mph) speedometers on their instrument panel. This situation constitutes a safety hazard for both visiting and UK drivers, and we consider that, as this potentially affects all EU citizens, that it should not be treated as a purely UK domestic matter to which the principle of subsidiarity should apply.

Similar arguments would apply if the UK Government were to argue, on the grounds of subsidiarity, that any continued authorisation for "supplementary indications" should extend to the sale of "loose goods" from bulk and to shelf labels (as well as to quantity indication on packages). We believe that the sale of "loose goods" from bulk within the UK is not purely a UK domestic matter. According to the Office of National Statistics (Rendell and Salt, 2005) in 2001 there were 1.1 million UK residents who were born in European countries other than the UK and Ireland, and this number has recently increased substantially as a result of migration from new member states of the EU. In 2005 there were 29.95 million non-resident visitors to the UK from overseas (Sharp, 2006, Table 12.7). Large numbers of EU citizens are placed at a disadvantage in their shopping by the (unlawful) practice of some retailers of using exclusively or primarily non-SI measurements (which the authorisation of supplementary indications has made harder to enforce). As an example, Continental consumers who commonly understand "pound" to mean 500 g are misled by pricing "per pound" where this refers to 454 g (1lb). We believe that the European interest (including that of the UK) requires a common system used and understood by all.

We would add that the UK Government has not so far formally consulted stakeholders on their response to the Commission's consultation paper. They appear to have assumed that it is in the UK's national interest to resist further

progress toward completing the changeover to general use of the metric system - a process which was initiated by the UK Government as long ago as 1965. We believe that, in reality, the Government is yielding to pressure from populist tabloid and other hostile newspapers and europhobic politicians - rather than considering the true national and European interest.

The Commission should be aware that although many politicians and other opinion-leaders in the UK are reluctant to speak out in favour of metrication, there is considerable underlying support for an end to the current "two systems" muddle in the UK. Indeed the supporters of our Association include a former Vice President of the Commission (Lord Kinnock) and a former British Deputy Prime Minister (Lord Howe of Aberavon), both of whom are still active in Parliament, as well as many business and academic leaders.

UK Metric Association
12 February 2007

References:

Paice, R B (2004) *A very British mess* UK Metric Association

Paice, R B (2006) *Metric signs ahead* UK Metric Association

Rendell, M and Salt, J (2005) *The foreign born population* Office of National Statistics [online] available at:
http://www.statistics.gov.uk/downloads/theme_compendia/fom2005/08_FQPM_Forei_gnBorn.pdf accessed on 22 January 2007

Sharp, D (ed) (2006) *Annual Abstract of Statistics 2006* Office for National Statistics (ONS)

Appendix - dual labelling: the case of Tabasco Sauce

The example below shows how a medium sized American company was easily able to cope with the dual-labelling regime (in advance of its becoming mandatory).



On the left is a bottle of Tabasco sauce produced by McIlhenny Co. of Avery Island, Louisiana. This bottle is 12 (US) fluid ounces (355 ml) and was purchased in a supermarket in Austin, Texas, USA in June 2006.

On the right is a bottle of Tabasco sauce produced by McIlhenny Co. of Avery Island, Louisiana. This bottle is 350 ml and was purchased in a cash and carry in Reading, Berkshire, UK in 2006.

Although the amounts involved (355 ml and 350 ml) vary by a mere 5 millilitres, McIlhenny apparently has no problem producing one bottle for the US market and another for the European one. There would have been nothing to stop them using the same bottle and filling to slightly different levels. In this case if supplementary indications were phased out there is clearly no threat to the business as metric only labelling is used today.