



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.9.2006
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Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

repealing Council Directive 68/89/EEC on the approximation of the laws of the Member States concerning the classification of wood in the rough

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

On 16th March 2005 the Commission adopted a key Communication on Better Regulation for Growth and Jobs in the European Union (COM (2005) 97) which stressed the importance of simplification of national and European legislation. Better Regulation is crucial for improving the competitiveness of European enterprises and for achieving the objectives of the Lisbon Agenda. By improving the quality of legislation and thereby cutting unnecessary costs and obstacles that hinder adaptation and innovation, the right incentives and market framework conditions are put in place for business to thrive, so that it can create the wealth our economies need.

As stated in the Commission Communication on Implementing the Community Lisbon Programme: a strategy for the simplification of the regulatory environment (COM (2005) 535), the review of the “acquis” must become a continuous and systematic process, enabling the legislator to revise legislation by taking all legitimate private sector and public interests into account. The Communication sets out a rolling programme which forms part of a new strategy for simplification. This programme specifies those pieces of legislation that the Commission envisages reviewing and assessing, with the view to simplifying them. Included in the programme is Council Directive 68/89/EEC, adopted on 23rd January 1968, on the approximation of the laws of the Member States concerning the classification of wood in the rough.

Having reviewed the implementation and application of this Directive, the Commission has concluded to propose its repeal.

2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES AND ASSESSMENT

2.1. Consultations

The starting point for reviewing whether it would be useful to keep Council Directive 68/89/EEC on the approximation of the laws of the Member States concerning the classification of wood in the rough as part of the “acquis” or not, was the opinions expressed by Member States, by the forest sector and the forest-based industries over a number of years that the Directive had not been generally applied in their trade of timber. Stakeholders stated that the methods used for the measurement of wood in the rough were other than those outlined in the Directive. Furthermore, there has not been any reported case of hindrances to trade in timber due to the fact that market operators could not agree on measuring or classifying wood in the rough.

As part of the Commission preparatory work and in accordance with the principles of Better Regulation, stakeholders were consulted through the Commission’s Standing Forestry Committee and through the Working Group on Competitiveness of the Commission Advisory Committee on Community Policy regarding Forestry and Forest-based Industries.

In addition a survey was sent to Member States and industry federations in order to establish whether the Directive was applied or not and to collect their views on a possible repeal of the Directive. The survey was launched in July 2005 and answers were received during that autumn.

2.2. Survey results

The survey was answered by 19 Member States and 11 national industry federations.

The main result of the survey is that, according to a majority of the Member States (2/3) and national industry federations (4/5) which answered the survey, the Directive is not applied in timber trade. The main reasons mentioned by Member States and industry for not applying the Directive were the following:

- the methods of measurement and classification provided by the Directive differ from the methods applied by enterprises in the sector;
- the classifications by dimensions and by quality provided by the Directive are not detailed enough and are too abstract;
- the classifications provided by the Directive do not take into account the intended uses of wood and are not adapted to market needs;
- European standards for quality and measurement are considered a better option.

Only two Member States did not agree with a proposal to repeal the Directive. Of the federations representing forest owners and the forest-based industries, all except one federation agreed with a proposal for repeal. However, whilst the members of this federation do not use the measurement methods set out in the Directive, the federation finds that it would not be “necessary” to have a repeal.

Based on the results of this survey, it seems clear that the Directive does not have general application.

Further details concerning the responses to the survey can be found at the website: http://ec.europa.eu/enterprise/forest_based/index_en.html

2.3. Assessment

The Directive 68/89/EEC on the approximation of the laws of the Member States concerning the classification of wood in the rough was adopted as a measure to develop the internal market for wood raw-material supply to the forest-based industries. However, its application has been limited, since it is not compulsory and, generally, operators in the timber markets have agreed and applied other methods of measurement and classification. The internal market for wood raw material has expanded, as well as trade with third countries, seemingly without any hindrances due to different measurement or classification methods being applied. Other measurement and classification methods are used and the trade in wood in the rough would not be negatively affected by the repeal. Furthermore, European standards as regards the measurement and classification of wood have been established which can be used, as appropriate, in wood market transactions and are considered a better solution.

The Directive 68/89/EEC is not necessary for internal market trade or trade with third countries and no obstacle to trade resulting from the used methods of measurement or classification has been noted in the sector concerned. Therefore, it was decided not to replace the Directive by other legislative measures or to modify it.

A repeal of the Directive would therefore be necessary in order to simplify the regulatory environment, by suppressing a non-essential instrument having a very limited application and which is not necessary for internal market reasons.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Subsidiarity and proportionality principles

Following the results of the consultation and the assessment, it is evident that the objectives of Directive 68/89/EEC can be adequately achieved without Community legislation.

3.2. Choice of instrument: the form of the act

In general, when an act is repealed the principle of “parallel forms” applies, that is to say, the repeal of Directive 68/89/EEC would be effected by a repealing Directive. However, due to the particular circumstances of this case namely:

- the Directive in question was introduced almost forty years ago;
- the systems of classification and measurement introduced by the Directive are out of date, also it has been established that those systems are not used by industry;
- moreover, the provisions of the Directive relating to classification and measurement are not compulsory.

It is considered that a Decision which is addressed to the Member States and which is directly applicable is the appropriate form of act. The benefit of a Decision is that it reinforces the point that Member States must consider their domestic position to ensure coherence between the regimes at national and Community level following the repeal of Directive 68/89/EEC.

3.3. Budgetary implications

The proposal does not have any budgetary implications

4. CONCLUSION

The proposal to repeal Directive 68/89/EEC on the approximation of the laws of the Member States concerning the classification of wood in the rough is in line with the results of the consultations with Member States, forest owners and industry.

It is however important that the repeal of Directive 68/89/EEC be followed by the repeal of the corresponding national implementing measures, in order to have the desired practical effect. The mark “EEC classified” will no longer be available for use.

In addition, it needs to be ensured that the advantages of the repeal are not cancelled out by new national rules or new technical barriers. Accordingly, it is important to note that any national rules on the classification of wood in the rough are consistent with the principles of Article 28 of the Treaty and do not constitute barriers to trade. Thus, for example, national rules on measurements by volume or weight, or on classification by species and common name or by dimensions or quality, must not introduce barriers to the free movements of wood in the rough within the internal market. Moreover, any national measures which might be considered to be technical regulations for the purpose of Directive 98/34/EC must be notified to the Commission in draft form.

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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 Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

- (1) Community policies on better regulation stress the importance of simplification of national and Community legislation as a crucial element for improving the competitiveness of enterprises and for achieving the objectives of the Lisbon Agenda.
- (2) The methods of measurement and classification provided by Council Directive 68/89/EEC of 23rd January 1968 on the approximation of the laws of the Member States concerning the classification of wood in the rough⁵ differ from the methods of measurement and classification generally and currently applied in transactions between enterprises in the forestry sector and the forest-based industries and are found not to be adapted to market needs.
- (3) The methods of measurement and classification provided by Directive 68/89/EEC are no longer necessary for the purposes of the internal market.
- (4) Directive 68/89/EEC should therefore be repealed.

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ L32, 06/02/1968, pp.12-15.

- (5) The repeal of Directive 68/89/EEC entails that after 31st December 2008 the mark “EEC classified” will no longer be available for use in marketing and that the corresponding national implementing measures have to be repealed accordingly by 31st December 2008,

HAVE ADOPTED THIS DECISION:

Article 1

Directive 68/89/EEC is repealed with effect from 31st December 2008.

Article 2

This Decision is addressed to the Member States.

Article 3

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the European Parliament
The President

For the Council
The President