



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.12.2006
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2004/0248 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to the second subparagraph of Article 251 (2) of the EC Treaty

concerning the

common position of the Council on the adoption of a proposal for a Directive of the European Parliament and of the Council 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

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1. BACKGROUND

Date of transmission of the proposal to the EP and the Council 25 October 2004
(document COM(2004) 708 final – 2004/0248 (COD):

Date of the opinion of the European Economic and Social Committee: 6 April 2005

Date of the opinion of the European Parliament, first reading: 2 February 2006

Date of transmission of the amended proposal: 18 April 2006

Date of political agreement (Competitiveness Council): 25 September 2006

Date of adoption of the common position: 4 December 2006

2. OBJECTIVE OF THE COMMISSION PROPOSAL

Proposal abolishes regulation dating from the 70-ies fixing nominal quantities in which products can be sold. The proposal only maintains regulation for wine and spirits, currently already subject to mandatory nominal quantities.

The proposal simplifies regulation on nominal quantities by integrating two directives into one directive. Similarly, it combines regulation on metrological control of pre-packed products, currently dealt with under two directives, in one single directive. Consequently, it repeals directives 75/106 and 80/232 and extends the scope of directive 76/211 to all prepacked products.

3. COMMENTS ON THE COMMON POSITION

3.1 Overall remarks on the common 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.

3.2 European Parliament amendments included in full, in part or in principle in the amended proposal and incorporated in full, in part or in principle in the common position

The amendments by the European Parliament that were accepted by the Commission in its modified proposal have all been retaken in the common position. It concerns the amendments: 1, 2, 8, 10, 11, 13, 14 and 16, which were accepted by the Commission in full and the amendments 3, 6, 7, 12 and 20 which were accepted in principle by the Commission and reworded.

3.3 European Parliament amendments not included in the amended proposal and not incorporated in the common position

The amendments by the European Parliament that were not accepted by the Commission in its modified proposal have neither been incorporated in the common position. It concerns the amendments 4, 5, 9, 15, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33, which were not accepted by the Commission because it would have led to extending mandatory nominal quantities to sectors which currently do not have such mandatory nominal quantities.

3.4 Changes to the original proposal introduced by the Commission in the amended proposal and incorporated in the common position

The common position also incorporates the changes to the original proposal introduced by the Commission in its amended proposal. It concerned the suppression of the mandatory nominal quantities in the sector of soluble coffee and white sugar, because many Member States currently allow products in all quantities in these sectors without this having market disruption as a consequence.

3.5 Other modifications introduced by the Council common position compared with the amended proposal

In the common position the following points have been introduced to the modified proposal, all of which pertain to the phasing out of national sizes in certain sectors.

Add Article 2.2.:

“While respecting the principles stated in the Treaty and, in particular, the free movement of goods, Member States which currently prescribe mandatory nominal quantities for milk,

butter, dried pasta and coffee may continue to do so until [60 months after the date of entry into force of this Directive].

Member States which currently prescribe mandatory nominal quantities for white sugar may continue to do so until [72 months after the date of entry into force of this Directive].”

Add Article 9.2:

“The Member States referred to in Article 2, paragraph 2 shall communicate to the Commission before [18 months after the date of entry into force of this Directive] the sectors subject to the derogation referred to in that paragraph, the period of such derogation, the range of mandatory nominal quantities applied and the interval concerned.”

Add Article 9.3:

“The Commission shall monitor the application of Article 2(2) based on its own findings and on reports from the Member States concerned”.

4. CONCLUSION

The Commission supports the common position, subject to the joint declarations mentioned in the following point.

5. DECLARATIONS BY THE COMMISSION

The Commission and the Council made two joint statements (annexed) which apply to the conditions of the phasing out of currently existing national sizes and the agreement by Member States not to introduce new national sizes.

ANNEX

First joint statement by the Commission and the Council

"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."

Second joint statement by the Commission and the Council

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