

## **Revision of OIML D 16**

### **EXPLANATORY NOTE**

The field of legal metrology has changed considerably in recent years, mainly due to the effects of liberalization, the elimination of technical barriers to trade on a regional basis, privatization, and a wider use of accreditation.

Firstly, voluntary accreditation and various mutual recognition agreements have now covered, in a systematic way, a number of areas in metrology that might otherwise be targets of metrological control (measuring instruments in non-regulated fields of metrology, national standards and dissemination of units of measurements, etc.).

Secondly, conformity assessment procedures based on quality systems and other tools are sometimes used for placing legally controlled measuring instruments on the market and putting them into use, replacing traditional type approval and initial verification procedures. A considerable part of the responsibilities in metrological control has been transferred in this respect from third party public bodies to manufacturers, distributors and owners.

The driving force behind this development is the effort coordinated by the World Trade Organization (WTO) to facilitate trade among countries and regions by removing technical barriers to trade (TBT). A number of free trade areas with harmonized legislation to that effect have thus come into existence based on regions (e.g. the European Union) or based on trade agreements introducing extensive mutual recognitions (e.g. NAFTA, the North American Free Trade Area).

Recently, the introduction of the OIML Mutual Acceptance Arrangement (MAA) has provided a global infrastructure for mutual acceptance in regard to type approval. Furthermore, these changes have enabled non-governmental and private bodies to become involved in activities of metrological control once third party assessment of their technical competence has been satisfactorily demonstrated. On the other hand, under the current circumstances, it has to be carefully studied whether protection of public interest, the principal goal of metrological control, has not been compromised as a result of all the changes mentioned above.

These developments have changed the traditional landscape in assurance of metrological control as a basic tool used by responsible public bodies to protect public interests in the liberalized world and have also widened the scope of possible regulations requiring effective metrological control (prepackages, conformity assessment procedures). All these developments led to the preparation of an OIML generic strategy document by Knut Birkeland [1]; gradually they will require a complete overhaul of the corresponding OIML Documents, especially those of a general nature to bring them up to date without compromising effective protection of public interest.

Naturally, the above-mentioned changes might not currently apply to all possible socio-economic environments of OIML Members, so the documents should be comprehensive enough to allow for this variety. Each one should offer a list of possible approaches to assurance of metrological control with their benefits and drawbacks to be used by national authorities in preparation of legislation.

OIML D 16, which plays a crucial role in this respect, was officially approved in 1986, and so its revision is considered by TC 3/SC 2 to be long overdue. On the other hand, a number of concepts are still applicable, therefore the revision is based on an update of the existing Document with a number of additions and annexes. A section on how to effectively fight fraud by way of metrological control has also been added.

Practical considerations in the preparation and implementation of legislation in the various countries may require an extension of the scope of legal metrological control as defined in the International Vocabulary of Legal Metrology (VIML) [2] because the existing infrastructures of metrological control and their expertise can be advantageously used for those forms of control specified by other legislation. This applies to, for example, prepackages subject to metrological legislation and various gaming machines subject to legal control by laws on lotteries and similar games. The legal control of prepackages is dealt with in OIML R 87 *Quantity of product in prepackages*.

In the preparation of the Working Draft, the approach was followed to review and update the existing D 16, not to start from scratch.

The Working Draft was circulated in September 2006 with a deadline for comments of December 31, 2006. Based on the comments received the First Committee Draft was prepared in March/April 2007 with a deadline for comments of July 31, 2007.

In response to comments the 2nd Committee Draft was drawn up in April 2008 and sent for comments with a deadline of July 31, 2008. After collating the comments the 3CD was prepared and distributed to TC 3/SC 2 members at the beginning of January 2009 for comments and voting with a deadline of April 2009.

The result of the vote by correspondence within TC 3/SC 2 on the 3 CD was that of the 17 P-members, 9 voted in favor and one abstained. Seven P-members did not vote and therefore the required two-thirds majority was not reached (3.4.4 of the *Directives for the technical work*, OIML B 6-1:1993).

At an informal meeting to review the technical work of OIML TCs and SCs (held on 9 March 2010 in conjunction with the Presidential Council meeting) it was considered that the concept covered by OIML D 16 (metrological control) will be dealt with in relation to other legal metrology concepts in the future, and that OIML TC 3 would take the lead in drafting an overall framework.

In order to avoid delaying the publication of the revised D 16 any further and considering the work to be undertaken in TC 3, three further P-members indicated that they could agree with the 3 CD being forwarded as a Draft Document and submitted to the CIML for approval.

The Draft Revision of OIML D 16 was submitted to CIML Members for online ballot with a deadline of 20.07.2010. The draft did not receive sufficient support to be approved directly (24 in favor, one vote against and two abstentions out of 57 CIML Members). The draft was therefore submitted to the CIML for approval at its 45th meeting (Orlando, September 2010).

The CIML considered the draft and took the following resolution:

*Resolution 18:*

*The Committee,*

*Noting that the Draft Revision of OIML D 16 Principles of assurance of metrological control had been submitted to the CIML for online ballot, but that it did not receive sufficient support to be approved,*

*Considering the comments made by the Netherlands and Norway, Requests the secretariat of OIML TC 3/SC 2 to prepare a revised Draft Revision of OIML D 16 with the assistance of the Netherlands and Norway; and*

*Instructs the Bureau to submit this revised Draft Revision to direct CIML online approval.*

As requested by the CIML, the secretariat has consulted with the Netherlands and Norway and has revised the text of the draft. The revised Draft Document is now submitted to the CIML for direct CIML online approval with a deadline of 27 April 2011.