



COMMISSION OF THE EUROPEAN COMMUNITIES

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**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 directive of the European
Parliament and of the Council on machinery and amending Directive 95/16/EC**

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1. BACKGROUND

Date of transmission of the proposal to the Council and the European Parliament [COM(2000) 899 - 2001/0004 (COD)] in accordance with article 95 of the Treaty 26 January 2001

Date of opinion of the Economic and Social Committee 12 September 2001

Date of opinion of the European Parliament - first reading 4 July 2002

Date of transmission of the Amended proposal [COM(2003) 48 - 2001/0004 (COD)] 11 February 2003

Date of adoption of the Council common position 18 July 2005

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The aim of the initial proposal was to ensure the free movement of the products within the scope by guaranteeing a high level of protection in the areas of health, safety and consumer protection. The products within the scope are essentially machinery and products used in conjunction with machinery.

In line with the conclusions of the 1994 Molitor report, the objective of the initial proposal was to provide a better definition of various concepts, to clarify certain aspects and to better ensure uniform application. To this end, the explanations of the conformity assessment and market surveillance procedures were improved, avoiding divergent interpretations of these procedures.

The initial proposal for a revision of the Machinery Directive was prepared on the basis of proposals drawn up by up a high-level group of independent experts from various backgrounds. It also took account of the experience gained in the practical application of the amended Directive 89/392/EEC¹.

¹ Council Directive 89/392/EEC of 14 June 1989 on the approximation of the laws of the Member States relating to machinery, OJ L 183 , 29.6.1989, p. 9. This Directive was codified by Directive 98/37/EC of the European Parliament and of the Council of 22 June 1998 on the approximation of the laws of the Member States relating to machinery, OJ L 331, 23.7.1998, p. 1. Directive as amended by Directive 98/79/EC (OJ L 331, 7.12.1998, p. 1).

The main elements of the initial proposal were as follows:

- Better definition of the scope of the directive, clarification of the borderline with other directives, in particular the Low Voltage² and the Lifts Directives³, and a clearer description of the concept of “Partly Completed Machinery” ;
- Strengthening of the provisions relating to market surveillance and to the notification of conformity assessment bodies ;
- Introduction of a full quality assurance procedure for certain categories of machinery.

In its amended proposal, the Commission incorporated many of the suggestions from the European Parliament with the aim of further improving the Directive.

3. COMMENTS ON THE COMMON POSITION

3.1. Overall remarks on the common position

The common position has been adopted by the Council unanimously.

It introduces a number of changes to the Commission’s amended proposal which considerably improve the text while maintaining the initial objectives of clarification and simplification of its application.

Key amendments proposed by the European Parliament in the first reading, such as the introduction of self-certification, via a manufacturer’s declaration of conformity, instead of third-party certification for machines presenting a higher level of risk in the case of full application of harmonised standards and the strengthening of the requirements on notified bodies are present in the common position.

Many of the modifications introduced in the common position concern improvements in the layout of the text or constitute editorial improvements which do not change the fundamental meaning or practical application of the Directive.

In particular, the layout of Annex I on essential health and safety requirements has been adapted to fit as closely as possible with the layout of the current Directive. Furthermore, the essential health and safety requirements of chapters 7 and 8 of Annex I of the amended proposal have been merged into chapters 4 and 6 relating to lifting and lifting of persons.

² Council Directive 73/23/EEC of 19 February 1973 on the harmonisation of the laws of the Member States relating to electrical equipment designed for use within certain voltage limits, OJ L 77, 26.3.1973, p. 29. Directive as amended by Directive 93/68/EEC (OJ L 220, 30.8.2003, p. 1).

³ Directive 95/16/EC of the European Parliament and of the Council of 29 June 1995 on the approximation of the laws of the Member States relating to lifts, OJ L 213, 7.9.1995, p. 1. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

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 following amendments have been included in the common position, in some cases with modifications:

14 on scope and exclusions (in part), 15 on definitions (in part), 16 on reference to Directive 92/59/EEC (in full), 17 and 82 on obligations for placing on the market and putting into service (in part), 18 on freedom of movement (in full), 22 on conformity assessment (in principle but introduced in Annex I, General Principles), 23 on conformity assessment (in full), 27 on CE marking (in part), 30 on notified bodies (in principle), 36 and 45 on safety and reliability of control systems (in part), 41 on definitions in Annex I (in part), 42 on principles of safety integration (in full), 49 on fixed guards (in part), 51 on electricity supply (in principle), 56 on marking of machinery (in part), 74 on declaration of conformity (in principle), 75 on declaration of conformity (in part), 80 on minimum criteria for notification of bodies (in part).

3.3. European Parliament amendments included in full, in part or in principle in the amended proposal and not incorporated in the common position

The following amendments were included in the amended proposal, but have not been included as such in the common position:

2 on recital explaining the exclusion of industrial sites, 3 on recital explaining the exclusion of medical devices, 47 on stability, 59 on instructions for portable hand-held and/or hand-guided machinery, 62 on testing of lifting machinery, 63 on control of movements of lifting machinery, 64 on loading control of lifting machinery, 66 on marking of chains and ropes, 69 on marking of machinery lifting persons, 72 on protective devices for construction site hoists and 76 on CE marking.

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

The following amendments were neither included in the amended proposal nor incorporated in the common position:

1 on a recital relating to environmental performance, 4 on a recital relating to machinery without risk, 5 on a recital relating to fairground and amusement park equipment, 6, 7, 8 and 11 on recitals relating to CE marking and voluntary certifications and marking, 9, 20 and 32 on recitals relating to comitology, 10 on a recital relating to high voltage equipment, 12 on a recital on old machinery, 13 on a recital codified versions of legal acts, 19 on harmonised standards, 24 on conformity assessment, 25 on partly completed machinery, 26 on notified bodies, 28 and 29 on market surveillance, 31 on confidentiality, 33 and 37 on the Lifts Directive, 34 on the evaluation of the New Approach concept, 35 on the entry into force of the Directive, 40 on the preliminary observations in Annex I, 44 on handling and transportation of machinery, 50 on seats in machinery, 55 on unhindered movement of exposed persons, 58 on instructions, 60 requirements on vibrations, 65 on lifting, 67 on controls for lifting or moving people, 70 on lifting machinery for persons with reduced mobility, 71 and 73 on construction site hoists, 77 on the technical file, 78

on Annex IX, 79 on Annex X, 83 on a recital relating to the establishment of a database.

3.5. European Parliament amendments not included in the amended proposal and incorporated into the common position

The following amendments were not included in the amended proposal, but have been incorporated into the common position:

48 on required characteristics of guards and protection devices and the part of amendment 57 on instructions, which removed the requirement that “*the instructions must be limited to the machine in question*”.

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

Modifications to the recitals

Recital 1 in the amended proposal was slightly modified in order to render it clearer.

Recital 4 in the amended proposal was deleted since it was no longer valid in light of modifications to the text of the common position.

Recitals 6 and 7 in the amended proposal were not incorporated into the common position.

Recital 8 in the amended proposal was split into new recitals 5 and 6 in the common position. The new recital 6 in the common position was modified for the sake of clarity.

Recital 9 in the amended proposal was considered superfluous and deleted.

A new recital 7 clarifying the relation with Council Directive 89/655/EEC was added to the common position.

A new recital 11 relating to Article 9 was added to the common position.

Recital 13 in the amended proposal was slightly modified in the common position.

Recital 14 in the amended proposal was slightly modified in the common position.

Recital 19 was slightly modified in order to reflect changes to Article 16 in the common position.

Recital 24 in the amended proposal was modified and renumbered as 28 in the common position.

Recital 27 in the amended proposal was modified according to an inter-institutionally agreed standard text and renumbered as 26 in the common position.

A new recital 27 encouraging Member States to draw up and make public tables illustrating the correlation between the Directive and their transposition measures was added to the common position.

Modifications to the articles

Article 1(1) in the amended proposal was modified in the common position in order to unambiguously list all categories of products covered by the Directive.

Article 1(2) in the amended proposal was modified in the common position in order to clarify the scope of the Directive by:

- removing superfluous exclusions of categories of products such as ordinary “*components*” in (a), “*industrial sites taken as a whole*” in (m) and “*medical devices*” in (n), none of which correspond to the categories listed in Article 1(1);
- in (d), excluding all weapons since the safety criteria of the Directive are not appropriate for this type of products;
- in (e), stating that agricultural and forestry tractors are excluded for the risks covered by Directive 2003/37/EC⁴, in order to improve the safety of such machinery and take stock of new legislative acts;
- introducing exclusion (h) “*machinery specially designed and constructed for research purposes for temporary use in laboratories*” for which it is unreasonable to apply the Directive;
- removing “*motors of all types*” in (l) of the amended proposal, since they are included in the category “*partly completed machinery*”.

Article 2 in the amended proposal was modified in the common position in order to improve legal clarity, readability and to achieve greater consistency with the principles of the New Approach:

- the meaning of the introductory sentence was clarified to the effect that, for the purpose of the Directive “*machinery*” designates the products listed in Article 1(1)(a) to (f);
- definitions (a) and (b) of “*machinery*” of the amended proposal were editorially improved and merged into definition (a) in the common position;
- the definition (d) of “*safety component*” in the amended proposal was editorially improved and renumbered as (c) in the common position. In addition, the list of safety components was moved to a new Annex V and made indicative in the common position;

⁴ Directive 2003/37/EC of the European Parliament and of the Council of 26 May 2003 on type-approval of agricultural and forestry tractors, their trailers and interchangeable towed machinery, together with their systems, components and separate technical units. OJ L 171, 9.7.2003, p. 1. Directive as amended by Council Directive 2004/66/EC (OJ L 168, 1.5.2004, p. 35).

- a new definition (e) of “*chains ropes and webbing*” was introduced in the common position;
- the definition (f) of “*removable mechanical transmission device*” in the amended proposal was editorially improved;
- the definition (g) of “*guard for a removable mechanical transmission device*” in the amended proposal was considered superfluous and deleted in the common position, since it is just one of many categories of safety components;
- the definition (h) of “*portable cartridge operated device*” in the amended proposal was considered superfluous and deleted in the common position, since it is just one of many categories of machinery;
- the definition (i) of “*partly completed machinery*” in the amended proposal was editorially improved to fit better with the concept of “*machinery*” and renumbered as (g) in the common position;
- the definition (j) of “*placing on the market*” in the amended proposal was modified in order to better reflect market reality for the products covered by the Machinery Directive and renumbered as (h) in the common position;
- the definition (k) of “*manufacturer*” in the amended proposal was editorially improved and renumbered as (i) in the common position;
- the definition (m) of “*putting into service*” in the amended proposal was modified since the latter part was considered superfluous and renumbered as (k) in the common position;
- the definition (n) of “*harmonised standard*” in the amended proposal was editorially improved and renumbered as (l) in the common position.

Article 3 in the amended proposal was editorially improved.

Article 4 in the amended proposal was editorially improved.

Article 5 in the amended proposal was editorially improved.

Article 6 in the amended proposal was editorially improved.

Article 8 in the amended proposal was modified by taking account of the changes to the list of safety components in 8(1)(a), by transferring the measures referred to in 8(1)(b) from the regulatory procedure to the advisory procedure in 8(2) and by removing measures 8(1)(c) and 8(1)(d) which had become superfluous following changes to Annex I. As a result of the above changes, paragraph (1)(e) in Article 8 of the amended proposal has been renumbered as (1)(b).

Article 9 in the amended proposal was modified in order to make the procedure clearer. In particular, the common position introduces, as a condition for adopting specific measures, that either the Commission, in accordance with the procedure for disputing a harmonised standard referred to in Article 10, considers that a harmonised standard does not entirely satisfy the essential health and safety

requirements which it covers, or that, in accordance with the procedure referred to in Article 11, the Commission considers that a safeguard clause against a product is justified.

Article 11 in the amended proposal was modified so that stakeholders can be better informed of the Commission's decision whether or not the measures taken by the Member State are justified.

Article 12 in the amended proposal was modified in order to improve readability and practical application of the Directive:

- paragraph (1) of the amended proposal was editorially modified taking account of the changes to the procedures;
- the procedure in paragraph (2) of the amended proposal was deleted because it was considered too bureaucratic;
- paragraph (3) in the amended proposal was editorially improved and renumbered as (2) in the common position;
- paragraph (4) in the amended proposal was editorially improved, the alternative (b) “*procedure for adaptation to harmonised standards provided for in Annex IX*” was removed due to lack of added value and the paragraph was renumbered as (3) in the common position;
- paragraph (5) in the amended proposal was editorially improved and renumbered as (4) in the common position.

Article 13 in the amended proposal was editorially improved and requirements ensuring better traceability and more legal certainty were added to the common position.

Article 14 in the amended proposal was editorially improved.

Article 15 in the amended proposal was modified by deleting the second paragraph.

Article 16 in the amended proposal was editorially improved in order to facilitate its practical application.

Article 17 in the amended proposal was editorially improved.

Article 18 in the amended proposal was editorially improved.

In Article 19, a second paragraph was added to the common position in order to emphasize the importance of the coordination of market surveillance.

Article 22 in the amended proposal was modified according to an inter-institutionally agreed standard provision.

Article 24 in the amended proposal was editorially improved and modified in order to establish unambiguous borderlines with other Directives and align terminology between the Machinery Directive and the Lifts Directive.

Article 25 in the amended proposal was editorially improved.

Article 26 in the amended proposal was modified according to an inter-institutionally agreed standard formula.

A new Article 27 was added to the common position in order to facilitate the phasing out of national provisions on portable cartridge operated and other impact machinery.

Modifications to the Annexes

In Annex I in the amended proposal, the “Preliminary Observations” were renamed “General Principles” and editorially improved in the common position. Furthermore, the iterative process of risk assessment and risk reduction was outlined in paragraph 1 of the common position.

In Annex I, 1.1.1 of the amended proposal, the definitions were modified in order to align them with established terms used in standardisation and definitions of “intended use” and “reasonably foreseeable misuse” were added for the sake of clarity in the common position.

Annex I, 1.1.2 - “Principles of safety integration” in the amended proposal was editorially improved in the common position.

Annex I, 1.1.3 - “Ergonomics” in the amended proposal was modified and renumbered as 1.1.6 in the common position.

Annex I, 1.1.5 - “Lighting” in the amended proposal was slightly modified and renumbered as 1.1.4 in the common position.

Annex I, 1.1.6 - “Design of machinery to facilitate its handling” in the amended proposal was editorially modified and renumbered as 1.1.5 in the common position.

In Annex I, 1.2.1 - “Safety and reliability of control systems” in the amended proposal the concept was better outlined in the common position taking account of experience of applying the Directive.

Annex I, 1.2.2 - “Manual controls” in the amended proposal was given its original name “Control devices” and modified in the common position taking account of practical experience of applying the Directive.

Annex I, 1.2.3 - “Starting” in the amended proposal was modified in the common position taking account of industrial practice.

Annex I, 1.2.4 - “Stopping” in the amended proposal was modified and 1.2.4.2 - “Operational stop” was added in the common position in order to facilitate safe industrial practices.

Annex I, 1.2.5 - “Control or operating mode selector” in the amended proposal was renamed “Selection of control or operating modes” and slightly modified in the common position.

Annex I, 1.2.6 - “Failure of the power supply” in the amended proposal was developed in more detail in the common position.

Annex I, 1.2.7 - “Control circuit failure” in the amended proposal was deleted since the risk was considered to be adequately covered in the new 1.2.1 - “Safety and reliability of control systems” in the common position.

Annex I, 1.2.8 - “Software” in the amended proposal was deleted since the risk was considered to be adequately covered in the new 1.7.1.1 - “Information and information devices” in the common position.

Annex I, 1.3 - “Protection against mechanical hazards” in the amended proposal was editorially modified for clarification in the common position.

Annex I, 1.4 - “Required characteristics of guards and protection devices” in the amended proposal was editorially modified for the sake of clarity in the common position.

Annex I, 1.5 - “Required characteristics of operating and/or driving positions” in the amended proposal was modified and clarified since some parts were deemed to be covered by the new 1.2 - “Control systems” in the common position. The resulting text was moved to 1.1.7 - “Operating positions” and 1.1.8 - “Seating” in the common position.

Annex I, 1.6 - “Risks due to other hazards” in the amended proposal was editorially improved and renumbered as 1.5 in the common position. In addition, 1.6.9 - “Noise”, 1.6.10 - “Vibrations”, 1.6.11 - “Radiation”, 1.6.14 - “Emissions of dangerous substances” and 1.6.16 - “Risk of slipping, tripping or falling” in the amended proposal were slightly modified in the common position, in order to simplify them and render their application more effective.

Annex I, 1.7 - “Maintenance” in the amended proposal was editorially modified and renumbered as 1.6 in the common position.

Annex I, 1.8 - “Information, warnings and warning systems” and 1.9 - “Marking of machinery” in the amended proposal were modified and merged into the new 1.7 - “Information” in the common position, for the sake of simplification and clarity.

Annex I, 1.10 - “Instructions” in the amended proposal was substantially improved and clarified, taking account of the experience of practical application of the Directive, and merged into 1.7 as 1.7.4 - “Instructions” in the common position.

Annex I, 2.1 - “Agri-foodstuffs machinery and machinery for the cosmetics and pharmaceuticals industries” in the amended proposal was slightly modified in the common position on the basis of practical experience of applying the Directive.

Annex I, 2.2 - “Portable hand-held and/or hand-guided machinery” in the amended proposal was modified in the common position.

Annex I, 2.3 - “Portable cartridge-operated fixing devices” in the amended proposal was modified and renumbered as 2.2.2 - “Portable fixing and other impact machinery” in the common position.

Annex I, 2.4 - “Machinery for working wood and analogous materials” in the amended proposal was editorially modified and renumbered as 2.3 - “Machinery for working wood and material with similar physical characteristics” in the common position.

Annex I, 3.1 - “General” in the amended proposal was editorially modified in the common position.

Annex I, 3.1.2 - “Lighting” in the amended proposal was deleted, since the risk was considered to be sufficiently covered by the general requirement 1.1.4 - “Lighting” in the common position.

Annex I, 3.2 - “Workstations” in the amended proposal was slightly modified in the common position.

Annex I, 3.3 - “Controls” in the amended proposal was editorially modified in the common position.

Annex I, 3.4 - “Protection against mechanical hazards” in the amended proposal was modified in the common position taking into account experience of applying the Directive and in order to simplify it and facilitate innovation.

Annex I, 3.5 - “Protection against other hazards” in the amended proposal was editorially modified in the common position.

Annex I, 3.6 - “Indications” in the amended proposal was modified in the common position.

In Annex I, 4.1 - “General” in the amended proposal, a number of editorial changes were made in the common position. Furthermore, Annex I, 4.1.1 - “Definitions” in the amended proposal was modified in the common position, in order to better align it with established terms used in standardisation. The definitions of “Slinging device”, “Separate lifting accessory” and “nominal load” in the amended proposal were considered superfluous and deleted, whilst the definition of “Carrier” was moved to 4.1.1 - “Definitions” in the common position from 6.1.1 - “Definition” in the amended proposal.

Annex I, 4.1.2.1 - “Risks due to lack of stability” was added to the common position, as it was considered to have been useful in Directive 98/37/EC.

Additionally, 4.1.2.8 - “Machinery serving fixed landings” was added to the common position, providing useful general requirements for such lifting machinery.

Annex I, 4.1.3 - “Fitness for purpose” was added to the common position, as it was considered to have been useful in Directive 98/37/EC.

Annex I, 4.2.4 - “Risks to exposed persons” in the amended proposal was deleted since it was considered to be covered by the new 4.1.2.8 - “Machinery serving fixed landings” in the common position.

Annex I, 4.3 - “Marking” in the amended proposal was editorially modified in the common position, in order to align the terminology with currently used standards.

Annex I, 4.4 - “Instructions” in the amended proposal was editorially modified in the common position, in order to align the terminology with currently used standards.

Annex I, 5 - “Supplementary essential health and safety requirements for machinery intended for underground work” in the amended proposal was editorially modified in the common position and 5.3 - “Lighting” in the amended proposal was deleted since the risk was considered to be sufficiently covered by the general requirement 1.1.4 - “Lighting” in the common position.

Annex I, 6.1 - “General” in the amended proposal was modified in the common position, incorporating general requirements from chapter 8 of the amended proposal and 6.1.1 - “Definition” in the amended proposal was moved to 4.1.1 - “Definitions” in the common position.

Annex I, 6.2 - “Manual controls” in the amended proposal was slightly modified in the common position.

Annex I, 6.3 - “Risk to persons in the carrier” in the amended proposal was modified in the common position and 6.3.3 - “Risk due to objects falling on the carrier” was moved in the common position from 8.1 - “Cab” of the amended proposal.

Annex I, 6.4 - “Machinery serving fixed landings” in the amended proposal was added to the common position introducing requirements from chapters 7 and 8 of the amended proposal in a more general manner.

Annex I, 6.5 - “Markings” in the amended proposal was slightly modified in the common position, specifying essential information.

In Annex I, the essential health and safety requirements in chapters 7 and 8 of the amended proposal were modified and expressed in more general requirements in chapters 4 and 5 of the common position.

Annex II - “Contents of declarations” in the amended proposal was slightly modified and the requirements in 2 - “Custody” of the common position were moved from Annexes VII, X and XI of the amended proposal.

Annex III - “CE marking” in the amended proposal was slightly modified in the common position and the requirement in the last paragraph concerning the identification number of the notified body was moved from Annex XI of the amended proposal.

Annex IV - “Types of machinery to which one of the procedures referred to in article 12(4) and (5) must be applied” in the amended proposal was editorially modified in the common position and three categories already present in Directive 98/37/EC - “21. Logic units to ensure safety functions”, “22. Roll-over protective structures (ROPS)” and “23. Falling-object protective structures (FOPS)” - were considered useful and added to the list.

Annex V - “Indicative list of the safety components referred to in Article 2(c)” was moved from Article 2 of the amended proposal and editorially modified in the common position. Furthermore, the categories “2. protective devices designed to detect the presence of persons”, “8. Monitoring devices for loading and movement

control in lifting machinery”, “11. Discharging systems to prevent the build-up of potentially dangerous electrostatic charges”, “12. Energy limiters and relief devices referred to in sections 1.5.7, 3.4.7 and 4.1.2.6 of Annex I”, “13. Systems and devices to reduce the emission of noise and vibrations”, “14. Roll-over protective structures (ROPS)”, “15. Falling-object protective structures (FOPS)”, “16. Two-hand control devices” and “17. Components for machinery designed for lifting and/or lowering persons between different landings and included in the following list...” were added to the indicative list in the common position.

Annex VI - “Technical file for machinery” in the amended proposal was modified taking account of practical experience of application of the Directive and renumbered as Annex VII in the common position. Part B outlining the requirements relating to “Relevant technical documentation for partly completed machinery” was added to the common position.

Annex VII - “Assessment of conformity with internal checks on the manufacture of machinery” in the amended proposal was editorially modified and renumbered as Annex VIII in the common position. Additionally, certain obligations relating to the EC declaration of conformity, CE marking and the technical file were deleted since they were already covered by Article 5 and the new Annex VII in the common position.

Annex VIII - “Assessment of conformity for a machine not presenting any intrinsic risk” in the amended proposal was deleted since the conformity assessment procedure in Article 12 referring to this Annex had been deleted.

Annex IX - “Adequacy in respect of the harmonised standards for machinery referred to in Annex IV” in the amended proposal was deleted since the conformity assessment procedure in Article 12 referring to this Annex had been deleted.

Annex X - “EC type-examination of a machine referred to in Annex IV” in the amended proposal was modified and renumbered as Annex IX - “EC type-examination” in the common position. Certain obligations relating to the EC declaration of conformity, CE marking and the technical file were deleted since they were already covered by Article 5. Furthermore, requirements on the validity of the EC type-examination certificate and the related responsibilities of the manufacturer and the notified body were added.

Annex XI - “Full quality assurance for a machine referred to in Annex IV” in the amended proposal was modified and renumbered as Annex X - “Full quality assurance” in the common position. Certain obligations relating to the EC declaration of conformity, CE marking and the technical file were deleted since they were already covered by Article 5 and the new Annex III.

Annex XII - “Minimum criteria to be taken into account by Member States for the notification of bodies” in the amended proposal was slightly modified and renumbered as Annex XI in the common position.

Annex XIII - “Correlation table” in the amended proposal, which indicates the relation between parts of Directive 98/37/EC and the parts of the revised Directive

that deal with the same subject was updated and renumbered as Annex XII in the common position.

4. CONCLUSION

The Commission considers that the common position unanimously adopted on 18 July 2005 further clarifies certain issues and concepts and improves the formulation of certain requirements while not altering the aims and approach of its proposal. The Commission can therefore support the common position.

5. DECLARATIONS

The Commission made the following declarations:

On Article 1 (2) (e), first indent, relating to the exclusion of agricultural and forestry tractors from the scope of the Directive:

“The Council and the Commission declare that, in order to cover all aspects related to the health and safety of agricultural and forestry tractors in one harmonising Directive, the Directive 2003/37/EC on type-approval of agricultural and forestry tractors, their trailers and interchangeable towed machinery, together with their systems, components and separate technical units needs to be modified so as to address all the relevant risks of the Machinery Directive.

Such a modification of Directive 2003/37/EC should include an amendment of the Machinery Directive, in order to delete the expression “for the risks” in Article 1 (2) (e), first indent.”

On Article 7 relating to presumption of conformity and harmonised standards:

“The Commission declares that it will make every effort in the context of the conclusion of standardisation mandates referred to in Article 2 (l) that, for every standard the references of which are published in the Official Journal of the European Union, information would be made available to the potential users of the relevant standards indicating the relationship between its clauses and essential health and safety requirements. In the context of the revision of the New Approach it will be further clarified how to implement such harmonised information requirements at a horizontal level for all New Approach Directives.”

On Article 16 (3) relating to CE marking:

“Without prejudice to the respect of Community legislation, the Commission, within the context of the revision of the New Approach, will clarify the conditions for the affixing of other markings in relation with the CE marking, whether national, European or private”.