



COMMISSION OF THE EUROPEAN COMMUNITIES

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OPINION OF THE COMMISSION

pursuant to Article 251 (2), third subparagraph, point (c) of the EC Treaty, on the European Parliament's amendments to the Council's common position regarding the proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on machinery and amending Directive 95/16/EC

AMENDING THE PROPOSAL OF THE COMMISSION
pursuant to Article 250 (2) of the EC Treaty

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1. INTRODUCTION

Article 251(2), third subparagraph, point (c) of the EC Treaty provides that the Commission is to deliver an opinion on the amendments proposed by the European Parliament at second reading. The Commission sets out its opinion below on the amendments proposed by Parliament.

2. BACKGROUND

- (a) Date of transmission to Parliament and Council: 26 January 2001
- (b) Opinion of the Economic and Social Committee: 12 September 2001
- (c) Date of the opinion of the first reading in Parliament: 4 July 2002
- (d) Date of transmission of the amended proposal: 11 February 2003
- (e) Date of political agreement in the Council: 24 September 2004
- (f) Date of adoption of the common position: 18 July 2005 (unanimity)
- (g) Date of the opinion of the second reading: 15 December 2005

3. PURPOSE OF THE 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.

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.

4. OPINION OF THE COMMISSION ON THE AMENDMENTS BY THE EUROPEAN PARLIAMENT

Amendments accepted by the Commission

The Commission can accept in full all 9 amendments adopted by the European Parliament. They are the result of a compromise package agreed between the European Parliament and the Council with a view to the adoption of the Directive in second reading. The amendments are in line with the objectives of the Commission’s proposal and maintain the balance of interests achieved in the common position.

The amendments to the Common Position mainly concern reinforcement of market surveillance and clarifications on the status of CE marking, the scope of application, confidentiality and the obligations of notified bodies within the context of full quality assurance certification systems.

The conclusion of the compromise package has been facilitated by three declarations which the Commission made during the December 2005 Plenary session (see annex).

5. CONCLUSION

Pursuant to Article 250(2) of the EC Treaty, the Commission amends its proposal as set out above.

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 , 29.06.1989, 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).

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, O.J. L 213, 7.9.1995, p. 1. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

ANNEX

Declarations by the Commission:

CE marking

Without prejudice to respect for Community legislation, the Commission, within the context of the revision of the New Approach, planned for mid-2006, will clarify the conditions for the affixing of other markings, whether national, European or private, in relation to the CE marking.

Tractors I

The Parliament, 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.

Tractors II

The Commission recognises the need to include in the agricultural and forestry tractors directives further requirements for risks not yet covered by these directives. To this end, the Commission is considering appropriate measures that include references to United Nations regulations, CEN and ISO standards and OECD codes.