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*****I**

REPORT

on the proposal for a directive of the European Parliament and of the Council
on transportable pressure equipment
(COM(2009)0482 – C7-0161/2009 – 2009/0131(COD))

Committee on Transport and Tourism

Rapporteur: Brian Simpson

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council on transportable pressure equipment
(COM(2009)0482 – C7-0161/2009 – 2009/0131(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2009)0482),
 - having regard to Article 251(2) and Article 71 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C7-0161/2009),
 - having regard to the Communication from the Commission to the European Parliament and the Council entitled "Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures" (COM(2009)0665),
 - having regard to Article 294(3) and Article 91 of the Treaty on the Functioning of the EU,
 - having regard to the opinion of the European Economic and Social Committee,
 - having regard to the opinion of the Committee of the Regions,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A7-0101/2010),
1. Adopts the position at first reading hereinafter set out;
 2. Takes note of the statements attached to this draft legislative resolution;
 3. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 4. Instructs its President to forward its position to the Council, to the Commission and to the national parliaments of the Member States.

Amendment 1

Proposal for a directive Recital 3

Text proposed by the Commission

(3) Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods extended the application of the provisions of certain international agreements to cover national traffic in order to harmonise the conditions under which dangerous goods are transported by road, rail and inland waterways across the *Community*.

Amendment

(3) Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods extended the application of the provisions of certain international agreements to cover national traffic in order to harmonise the conditions under which dangerous goods are transported by road, rail and inland waterways across the *Union*.

Justification

This change will apply throughout the text.

Amendment 2

Proposal for a directive Recital 11

Text proposed by the Commission

(11) Periodic inspections and exceptional checks of transportable pressure equipment should be carried out in accordance with the Annexes to Directive 2008/68/EC and with this Directive to ensure continued compliance with their safety requirements.

Amendment

(11) Periodic inspections, *intermediate inspections* and exceptional checks of transportable pressure equipment should be carried out in accordance with the Annexes to Directive 2008/68/EC and with this Directive to ensure continued compliance with their safety requirements.

Amendment 3

Proposal for a directive Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) This Directive should not apply to transportable pressure equipment which

was placed on the market before the date of implementation of Directive 1999/36/EC and which has not been subject to reassessment of conformity.

Amendment 4

Proposal for a directive Recital 13

Text proposed by the Commission

(13) Existing transportable pressure equipment not previously assessed for conformity with Directive 1999/36/EC *should be reassessed and marked according to the provisions of this Directive in order to demonstrate its compliance with safety requirements and ensure* free movement and use.

Amendment

(13) ***If*** existing transportable pressure equipment not previously assessed for conformity with Directive 1999/36/EC ***is to benefit from*** free movement and ***free*** use, ***it should be subject to reassessment of conformity.***

Amendment 5

Proposal for a directive Recital 18

Text proposed by the Commission

(18) Member States should be able to take measures to limit or prohibit the placing on the market and use of equipment in cases where it presents a risk to safety in certain specified circumstances.

Amendment

(18) Member States should be able to take measures to limit or prohibit the placing on the market and use of equipment in cases where it presents a risk to safety in certain specified circumstances, ***including when the equipment is in compliance with Directive 2008/68/ EC and this Directive.***

Amendment 6

Proposal for a directive Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) The Commission should draw up specific guidelines to facilitate the

practical implementation of the technical provisions of this Directive, taking into account the results of the exchange of experience as foreseen in Articles 28 and 29.

Amendment 7

Proposal for a directive Recital 19

Text proposed by the Commission

(19) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.

Amendment

deleted

Amendment 8

Proposal for a directive Recital 20

Text proposed by the Commission

(20) In particular the Commission should be empowered to adapt the Annexes to scientific and technical progress. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, inter alia, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Amendment

(20) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the TFEU in respect of certain adaptations to the Annexes. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at experts' level

Amendment 9

Proposal for a directive Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) In accordance with paragraph 34 of the Interinstitutional Agreement on better law-making, Member States are encouraged to draw up, for themselves and in the interest of the Union, their own tables, which will, as far as possible, illustrate the correlation between this Directive and the transposition measures, and to make them public.

Amendment 10

Proposal for a directive Article 1 - paragraph 2 - point b

Text proposed by the Commission

Amendment

(b) transportable pressure equipment as defined in Article 2(1), bearing the conformity markings provided for in this Directive or in Directives 84/525/EEC, 84/526/EEC, 84/527/EEC or 99/36/EC, for the purposes of their periodic inspections, exceptional checks and use;

(b) transportable pressure equipment as defined in Article 2(1), bearing the conformity markings provided for in this Directive or in Directives 84/525/EEC, 84/526/EEC, 84/527/EEC or 99/36/EC, for the purposes of their periodic inspections, ***intermediate inspections***, exceptional checks and use;

Amendment 11

Proposal for a directive Article 2 - paragraph 1 - point a

Text proposed by the Commission

Amendment

(a) all pressure receptacles, their valves and other accessories when appropriate, as ***defined*** in chapter 6.2 of the Annexes to Directive 2008/68/EC,

(a) all pressure receptacles, their valves and other accessories when appropriate, as ***covered*** in chapter 6.2 of the Annexes to Directive 2008/68/EC,

Amendment 12

Proposal for a directive

Article 2 - paragraph 1 - point b

Text proposed by the Commission

(b) tanks, battery vehicles/wagons, multiple-element gas containers (MEGCs), their valves and other accessories when appropriate, as **defined** in chapter 6.8 of the Annexes to Directive 2008/68/EC, when the equipment under (a) or (b) is used in accordance with those Annexes for the transport of Class 2 gases, excluding gases or articles with figures 6 and 7 in the classification code, and for the transport of the dangerous substances of other classes specified in Annex I to this Directive;

Amendment

(b) tanks, battery vehicles/wagons, multiple-element gas containers (MEGCs), their valves and other accessories when appropriate, as **covered** in chapter 6.8 of the Annexes to Directive 2008/68/EC, when the equipment under (a) or (b) is used in accordance with those Annexes for the transport of Class 2 gases, excluding gases or articles with figures 6 and 7 in the classification code, and for the transport of the dangerous substances of other classes specified in Annex I to this Directive;

Transportable pressure equipment shall be understood as including gas cartridges (UN No. 2037) and excluding aerosols (UN No. 1950), open cryogenic receptacles, gas cylinders for breathing apparatus, fire extinguishers (UN No. 1044), transportable pressure equipment exempted according to 1.1.3.2 of the Annexes to Directive 2008/68/EC and transportable pressure equipment exempted from the rules for construction and testing of packaging according to special provisions in 3.3 of the Annexes to Directive 2008/68/EC.

Amendment 13

Proposal for a directive

Article 2 - paragraph 14

Text proposed by the Commission

14. “economic operators” means the manufacturer, the authorised representative, the importer, the distributor, the owner or the operator acting in the course of a commercial activity, whether in

Amendment

14. “economic operators” means the manufacturer, the authorised representative, the importer, the distributor, the owner or the operator acting in the course of a commercial **or public service** activity, whether in return for payment or

return for payment or free of charge;

free of charge;

Amendment 14

Proposal for a directive

Article 2 - paragraph 17

Text proposed by the Commission

17. "reassessment of conformity" means the procedure undertaken, at the request of the owner, for the subsequent assessment of the conformity of transportable pressure equipment manufactured and placed on the market before the date of implementation of Directive 1999/36/EC;

Amendment

17. "reassessment of conformity" means the procedure undertaken, at the request of the owner **or operator**, for the subsequent assessment of the conformity of transportable pressure equipment manufactured and placed on the market before the date of implementation of Directive 1999/36/EC;

Amendment 15

Proposal for a directive

Article 2 - paragraph 18 a (new)

Text proposed by the Commission

Amendment

18a. "intermediate inspection" means the intermediate inspection and the procedures governing the intermediate inspection as set out in the Annexes to Directive 2008/68/EC;

Amendment 16

Proposal for a directive

Article 2 - paragraph 21

Text proposed by the Commission

21. "accreditation" means an attestation by a national accreditation body that a notified body meets the requirements set out in the second paragraph of **1.8.6.4** of the Annexes to Directive 2008/68/EC;

Amendment

21. "accreditation" means an attestation by a national accreditation body that a notified body meets the requirements set out in the second paragraph of **1.8.6.8** of the Annexes to Directive 2008/68/EC;

Amendment 17

Proposal for a directive Article 2 - last paragraph

Text proposed by the Commission

Transportable pressure equipment shall be understood as including gas cartridges (UN No. 2037) and excluding aerosols (UN No. 1950), open cryogenic receptacles, gas cylinders for breathing apparatus, fire extinguishers (UN No. 1044), transportable pressure equipment exempted according to 1.1.3.2 of the Annexes to Directive 2008/68/EC and transportable pressure equipment exempted from the rules for construction and testing of packaging according to special provisions in 3.3 of the Annexes to Directive 2008/68/EC.

Amendment

deleted

Amendment 18

Proposal for a directive Article 4 - paragraph 4

Text proposed by the Commission

4. Manufacturers who consider or have reason to believe that transportable pressure equipment which they have placed on the market is not in conformity with the Annexes to Directive 2008/68/EC **and** with this Directive shall immediately take the necessary corrective measures to bring the transportable pressure equipment into conformity, to withdraw it or to recall it, if appropriate. Furthermore, where the transportable pressure equipment presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States in which they made the transportable pressure equipment available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

Amendment

4. Manufacturers who consider or have reason to believe that transportable pressure equipment which they have placed on the market is not in conformity with the Annexes to Directive 2008/68/EC **or** with this Directive shall immediately take the necessary corrective measures to bring the transportable pressure equipment into conformity, to withdraw it or to recall it, if appropriate. Furthermore, where the transportable pressure equipment presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States in which they made the transportable pressure equipment available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

Amendment 19

Proposal for a directive

Article 5 - paragraph 1 -subparagraph 2

Text proposed by the Commission

The obligations set out in Article 4(1) and the drawing up of technical documentation shall not form part of the authorised representative's mandate.

Amendment

The obligations set out in Article 4(1) **and (2)** and the drawing up of technical documentation shall not form part of the authorised representative's mandate.

Amendment 20

Proposal for a directive

Article 5 - paragraph 2 - point a

Text proposed by the Commission

(a) keep the technical documentation at the disposal of national surveillance authorities for at least **20 years from the date of manufacture of the transportable pressure equipment**;

Amendment

(a) keep the technical documentation at the disposal of national surveillance authorities for at least **the period as specified in the Annexes to Directive 2008/68/EC for manufacturers**;

Amendment 21

Proposal for a directive

Article 6 - paragraph 6

Text proposed by the Commission

6. Importers shall, for at least **20 years from the date of the manufacture of the transportable pressure equipment**, keep a copy of the technical documentation at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities upon request.

Amendment

6. Importers shall, for at least **the period as specified in the Annexes to Directive 2008/68/EC for manufacturers**, keep a copy of the technical documentation at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities upon request.

Amendment 22

Proposal for a directive

Article 7 - paragraph 1 - subparagraph 2

Text proposed by the Commission

Where a distributor considers or has reason to believe that transportable pressure equipment is not in conformity with the Annexes to Directive 2008/68/EC or this Directive, he shall not make the transportable pressure equipment available on the market until it has been brought into conformity. Furthermore, where the transportable pressure equipment presents a risk, the distributor shall inform the manufacturer or the importer to that effect as well as the market surveillance authorities.

Amendment

Where a distributor considers or has reason to believe that transportable pressure equipment is not in conformity with the Annexes to Directive 2008/68/EC or **with** this Directive, he shall not make the transportable pressure equipment available on the market until it has been brought into conformity. Furthermore, where the transportable pressure equipment presents a risk, the distributor shall inform the manufacturer or the importer to that effect as well as the market surveillance authorities.

Amendment 23

Proposal for a directive

Article 8 - paragraph 3 a (new)

Text proposed by the Commission

Amendment

(4a) This Article shall not apply to private individuals intending to use or using transportable pressure equipment for their personal or domestic use or for their leisure or sporting activities.

Amendment 24

Proposal for a directive

Article 11 - introductory part

Text proposed by the Commission

Economic operators shall, on request from the market surveillance authority, identify the following to it for ***the*** period ***specified in the Annexes to Directive 2008/68/EC***

Amendment

Economic operators shall, on request from the market surveillance authority, identify the following to it for ***a*** period ***of at least 10 years.***

Amendment 25

Proposal for a directive Article 12 - paragraph 1

Text proposed by the Commission

1. The transportable pressure equipment referred to in Article 1(2) (a) shall meet the relevant conformity assessment, periodic inspection and exceptional checks requirements set out in the Annexes to Directive 2008/68/EC and Chapters 3 and 4 of this Directive.

Amendment

1. The transportable pressure equipment referred to in Article 1(2) (a) shall meet the relevant conformity assessment, periodic inspection, ***intermediate inspection*** and exceptional checks requirements set out in the Annexes to Directive 2008/68/EC and Chapters 3 and 4 of this Directive.

Amendment 26

Proposal for a directive Article 12 - paragraph 2

Text proposed by the Commission

2. The transportable pressure equipment referred to in Article 1(2) (b) shall meet the specifications of the documentation according to which the equipment was manufactured. The equipment shall be subject to periodic inspections and exceptional checks and the requirements of Chapters 3 and 4 of this Directive.

Amendment

2. The transportable pressure equipment referred to in Article 1(2) (b) shall meet the specifications of the documentation according to which the equipment was manufactured. The equipment shall be subject to periodic inspections, ***intermediate inspections*** and exceptional checks ***in accordance with the Annexes to Directive 2008/68/EC*** and the requirements of Chapters 3 and 4 of this Directive.

Amendment 27

Proposal for a directive Article 12 - paragraph 3

Text proposed by the Commission

3. Certificates of conformity assessment and certificates of reassessment of conformity and reports of periodic inspections and exceptional checks issued by a notified body shall be valid in all

Amendment

3. Certificates of conformity assessment and certificates of reassessment of conformity and reports of periodic inspections, ***intermediate inspections*** and exceptional checks issued by a notified

Member States.

For demountable parts of transportable pressure equipment a separate conformity assessment may be carried out.

body shall be valid in all Member States.

For demountable parts of **refillable** transportable pressure equipment a separate conformity assessment may be carried out.

Amendment 28

Proposal for a directive Article 14 - paragraph 6

Text proposed by the Commission

6. Demountable parts with a direct safety function shall be Pi-marked.

Amendment

6. Demountable parts **of refillable transportable pressure equipment** with a direct safety function shall be Pi-marked.

Amendment 29

Proposal for a directive Article 15 - paragraph 4

Text proposed by the Commission

4. The Pi marking shall be affixed visibly, legibly and permanently to the transportable pressure equipment or to its data plate as well as to demountable parts of transportable pressure equipment having a direct safety function.

Amendment

4. The Pi marking shall be affixed visibly, legibly and permanently to the transportable pressure equipment or to its data plate as well as to demountable parts **of refillable** transportable pressure equipment having a direct safety function.

Amendment 30

Proposal for a directive Article 15 - paragraph 5

Text proposed by the Commission

5. The Pi marking shall be affixed before the new transportable pressure equipment or demountable parts of transportable pressure equipment having a direct safety function are placed on the market.

Amendment

5. The Pi marking shall be affixed before the new transportable pressure equipment or demountable parts of **refillable** transportable pressure equipment having a direct safety function are placed on the market.

Amendment 31

Proposal for a directive Article 15 - paragraph 7

Text proposed by the Commission

7. The marking of the date of the periodic inspection shall be ***followed*** by the identification number of the notified body responsible for the periodic inspection.

Amendment

7. The marking of the date of the periodic inspection ***or, where appropriate, the intermediate inspection*** shall be ***accompanied*** by the identification number of the notified body responsible for the periodic inspection.

Amendment 32

Proposal for a directive Article 21 - paragraph 2 - point a

Text proposed by the Commission

(a) the activities relating to conformity assessment and reassessment of conformity;

Amendment

(a) the activities relating to conformity assessment, ***periodic inspection, intermediate inspection, exceptional checks*** and reassessment of conformity;

Amendment 33

Proposal for a directive Article 21 - paragraph 2 - point b

Text proposed by the Commission

(b) the procedures relating to a) above ***including periodic inspection, exceptional checks and reassessment of conformity***;

Amendment

(b) the procedures relating to a) above;

Amendment 34

Proposal for a directive Article 22 - paragraph 3

Text proposed by the Commission

3. The notification shall include ***full details of the conformity assessment, periodic inspection and exceptional check activities, the procedures used, the transportable pressure equipment concerned and the relevant attestation of competence.***

Amendment

3. The notification shall include ***the information required under Article 21(2).***

Amendment 35

Proposal for a directive Article 26 - paragraph 1

Text proposed by the Commission

1. Notified bodies shall carry out conformity assessments, periodic inspections and exceptional checks in accordance with the terms of their notification and ***with the conformity assessment*** procedures set out in the Annexes to Directive 2008/68/EC.

Amendment

1. Notified bodies shall carry out conformity assessments, periodic inspections, ***intermediate inspections*** and exceptional checks in accordance with the terms of their notification and the procedures set out in the Annexes to Directive 2008/68/EC.

Amendment 36

Proposal for a directive Article 27 - paragraph 1 - point c

Text proposed by the Commission

(c) any request for information which they have received from market surveillance authorities ***regarding conformity assessment activities;***

Amendment

(c) any request for information ***on activities performed*** which they have received from market surveillance authorities;

Amendment 37

Proposal for a directive

Article 27 - paragraph 1 - point d

Text proposed by the Commission

(d) on request, **conformity assessment** activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.

Amendment

(d) on request, activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.

Amendment 38

Proposal for a directive

Article 27 - paragraph 2

Text proposed by the Commission

2. Notified bodies shall provide the other bodies notified under this Directive carrying out similar conformity assessment, periodic inspection and exceptional checks activities covering the same transportable pressure equipment with relevant information on issues relating to negative and, on request, positive conformity assessment results.

Amendment

2. Notified bodies shall provide the other bodies notified under this Directive carrying out similar conformity assessment, periodic inspection, **intermediate inspections** and exceptional checks activities covering the same transportable pressure equipment with relevant information on issues relating to negative and, on request, positive conformity assessment results.

Amendment 39

Proposal for a directive

Article 28 - introductory part

Text proposed by the Commission

The Commission shall provide for the organisation of exchange of experience between the Member States' national authorities responsible for

Amendment

The Commission shall provide for the organisation of exchange of experience between the Member States' national authorities responsible **under this Directive** for

Amendment 40

Proposal for a directive Article 31 - paragraph 1

Text proposed by the Commission

1. Where, on completion of the procedure set out in Article 30(3) and (4), objections are raised against a measure taken by a Member State or where the Commission considers a national measure to be contrary to **Community legislation**, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not.

Amendment

1. Where, on completion of the procedure set out in Article 30(3) and (4), objections are raised against a measure taken by a Member State or where the Commission considers a national measure to be contrary to **a legally binding Union act**, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not.

Amendment 41

Proposal for a directive Article 33 - paragraph 1 - point a

Text proposed by the Commission

(a) the Pi marking has been affixed in violation of Article 12, Article 13 **or** Article 14;

Amendment

(a) the Pi marking has been affixed in violation of Article 12, Article 13, Article 14 **or Article 15**;

Amendment 42

Proposal for a directive Article 33 - paragraph 1 - point d

Text proposed by the Commission

(d) the requirements of the Annexes to Directive 2008/68/EC have not been complied with.

Amendment

(d) the requirements of the Annexes to Directive 2008/68/EC **and this Directive** have not been complied with.

Amendment 43

Proposal for a directive Article 35

Text proposed by the Commission

The Commission ***may adapt*** the Annexes to this Directive to scientific and technical progress, in particular taking into account amendments to the Annexes to Directive 2008/68/EC. ***Those measures, designed to amend non-essential elements of this Directive, inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 36(2).***

Amendment

The Commission ***may adopt delegated acts in accordance with Article 290 TFEU as regards adaptations of*** the Annexes to this Directive to scientific and technical progress, in particular taking into account amendments to the Annexes to Directive 2008/68/EC.

For the delegates acts referred to in this Article, the procedures set out in Articles 36, 36a and 36b shall apply.

Amendment 44

Proposal for a directive Article 36 - title

Text proposed by the Commission

Committee

Amendment

Exercise of delegation

Amendment 45

Proposal for a directive Article 36 - paragraph 1

Text proposed by the Commission

1. The Commission shall be assisted by the Committee on the transport of dangerous goods set up under Article 9 of Directive 2008/68/EC.

Amendment

1. The powers to adopt the delegated acts referred to in Article 35 shall be conferred on the Commission for an indeterminate period of time.

Amendment 46

Proposal for a directive Article 36 - paragraph 2

Text proposed by the Commission

2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply having regard to the provisions of Article 8 thereof.

The time-limits provided for in Article 5a(3)(c), and (4)(b) and (e) of Decision 1999/468/EC shall be one month, one month and two months respectively.

Amendment

2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and the Council.

Amendment 47

Proposal for a directive Article 36 - paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in Articles 36a and 36b.

Amendment 48

Proposal for a directive Article 36 a (new)

Text proposed by the Commission

Amendment

Article 36a

Revocation of the delegation

1. The delegation of power referred to in Article 35 may be revoked at any time by the European Parliament or by the Council.

2. The institution which has commenced an internal procedure for deciding

whether to revoke the delegation of powers shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.

3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.

Amendment 49

Proposal for a directive Article 36 b (new)

Text proposed by the Commission

Amendment

Article 36b

Objections to delegated acts

1. The European Parliament or the Council may object to a delegated act within a period of three months from the date of notification.

At the initiative of the European Parliament or the Council this period shall be extended by two months.

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and enter into force at the date stated therein.

The delegated act may be published in the official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the

Commission of their intention not to raise objections.

3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Amendment 50

Proposal for a directive Article 38 - paragraph 1

Text proposed by the Commission

1. EEC pattern approval certificates for transportable pressure equipment issued pursuant to Directives 84/525/EEC, 84/526/EEC and 84/527/EEC and EC design-examination certificates issued pursuant to Directive 1999/36/EC shall be recognised as equivalent to the type approval certificates referred to in the Annexes to Directive 2008/68/EC.

Amendment

1. EEC pattern approval certificates for transportable pressure equipment issued pursuant to Directives 84/525/EEC, 84/526/EEC and 84/527/EEC and EC design-examination certificates issued pursuant to Directive 1999/36/EC shall be recognised as equivalent to the type approval certificates referred to in the Annexes to Directive 2008/68/EC **and shall be subject to the provisions on time limited recognition of type approvals set out in those Annexes.**

Amendment 51

Proposal for a directive Article 38 a (new)

Text proposed by the Commission

Amendment

Article 38a

Obligations on Member States

Member States shall take the necessary measures to ensure that the economic operators concerned comply with the provisions set out in Chapters 2 and 5. Member States shall also ensure that the necessary implementing measures are taken in respect of Articles 12 to 15 in

Chapter 3.

Amendment 52

Proposal for a directive Article 39 - paragraph 1

Text proposed by the Commission

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2011 at the latest. They shall forthwith communicate to the Commission the text of those provisions **and a correlation table between those provisions and this Directive.**

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2011 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Amendment 53

Proposal for a directive Annex I - UN No 1790

Text proposed by the Commission

HYDROFLUORIC ACID, **SOLUTION**,
WITH MORE THAN 85%
HYDRFLUORIC ACID

Amendment

HYDROFLUORIC ACID WITH MORE
THAN 85% **HYDROGEN FLUORIDE**

Amendment 54

Proposal for a directive Annex III - paragraph 1

Text proposed by the Commission

1. The method for ensuring that the transportable pressure equipment referred to in Article 1 (2) (c) manufactured and put into service before the dates of implementation of Directive 1999/36/EC complies with the relevant provisions of the Annexes to Directive 2008/68/EC as applicable at the time of reassessment shall

Amendment

1. The method for ensuring that the transportable pressure equipment referred to in Article 1 (2) (c) manufactured and put into service before the dates of implementation of Directive 1999/36/EC complies with the relevant provisions of the Annexes to Directive 2008/68/EC **and the relevant provisions of this Directive** as applicable at the time of reassessment shall

be as set out in this Annex.

be as set out in this Annex.

Amendment 55

Proposal for a directive Annex III - paragraph 2

Text proposed by the Commission

2. The owner or ***his authorised representative established within the Community or the holder*** must make available to a notified body conforming to EN ISO/IEC 17020:2004 type A the information regarding the transportable pressure equipment which enables that body to identify the equipment precisely (origin, design rules, and for acetylene cylinders also details of the porous material). The information shall include, where appropriate, any prescribed restrictions on use, and any notes on possible damage or repairs which have been carried out.

Amendment

2. The owner or ***operator*** must make available to a notified body conforming to EN ISO/IEC 17020:2004 type A, ***notified for reassessment of conformity***, the information regarding the transportable pressure equipment which enables that body to identify the equipment precisely (origin, design rules, and for acetylene cylinders also details of the porous material). The information shall include, where appropriate, any prescribed restrictions on use, and any notes on possible damage or repairs which have been carried out.

Amendment 56

Proposal for a directive Annex III - paragraph 3

Text proposed by the Commission

3. The type A notified body shall assess whether the transportable pressure equipment affords at least the same degree of safety as the transportable pressure equipment referred to in the Annexes to Directive 2008/68/EC. The assessment shall be carried out on the basis of the information produced in accordance with ***point 2*** and, where appropriate, of further inspections.

Amendment

3. The type A notified body, ***notified for reassessment of conformity***, shall assess whether the transportable pressure equipment affords at least the same degree of safety as the transportable pressure equipment referred to in the Annexes to Directive 2008/68/EC. The assessment shall be carried out on the basis of the information produced in accordance with ***paragraph 2*** and, where appropriate, of further inspections.

Amendment 57

Proposal for a directive Annex III - paragraph 4

Text proposed by the Commission

4. Where pressure receptacles were manufactured in series, Member States may authorise the assessment of conformity of individual pressure receptacles, including their valves and other accessories used for transport, to be carried out by a notified body conforming to EN ISO/IEC 17020:2004 Type B provided that conformity of the type has been assessed in accordance with paragraph 3 by a type A notified body.

Amendment

deleted

Amendment 58

Proposal for a directive Annex III - paragraph 5

Text proposed by the Commission

5. If the results of the assessments *in paragraphs 3 and 4* are satisfactory, the transportable pressure equipment shall be subject to the periodic inspection provided for in the Annexes to Directive 2008/68/EC *and* the Pi marking shall be applied by the notified body responsible for the periodic inspection in accordance with Article 14 (1) – (5). The Pi marking shall be followed by the identification number of the *type A* notified body responsible for *the reassessment of conformity and, if different, the identification number of the notified body responsible* for periodic inspection.

Amendment

5. If the results of the assessments are satisfactory, the transportable pressure equipment shall be subject to the periodic inspection provided for in the Annexes to Directive 2008/68/EC. ***If the requirements of that periodic inspection are met*** the Pi marking shall be applied by ***or under the surveillance of*** the notified body responsible for the periodic inspection in accordance with Article 14 (1) – (5). The Pi marking shall be followed by the identification number of the notified body responsible for periodic inspection.

The notified body responsible for periodic inspection shall issue a certificate of reassessment in accordance with paragraph 6.

Amendment 59

Proposal for a directive Annex III - paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Where pressure receptacles were manufactured in a series, Member States may authorise the reassessment of conformity of individual pressure receptacles, including their valves and other accessories used for transport, to be carried out by a notified body notified for periodic inspection of the relevant transportable pressure receptacles provided that conformity of the type has been assessed in accordance with paragraph 3 by a type A notified body, responsible for reassessment of conformity, and a certificate of type reassessment issued. The Pi marking shall be followed by the identification number of the notified body responsible for periodic inspection.

Amendment 60

Proposal for a directive Annex III - paragraph 6

Text proposed by the Commission

Amendment

6. A certificate of reassessment shall be issued.

Where the procedure in paragraph 4 is applied the type A body shall issue the certificate of reassessment containing as a minimum:

(a) the identification of the notified body;

(b) the name and address of the

6. In all cases the notified body responsible for the periodic inspection shall issue the certificate of reassessment containing as a minimum:

(a) the identification of the notified body ***issuing the certificate, and, if different, the identification number of the type A notified body responsible for the reassessment of conformity in accordance with paragraph 3;***

(b) the name and address of the ***owner or***

manufacturer and the holder of the original type approval for the transportable pressure equipment being reassessed when the holder is not the manufacturer;

(c) the data *identifying* the transportable pressure equipment *belonging to the series*; and

(d) the date of issue.

operator specified in paragraph 2;

(c) *in the case of the application of the procedure in paragraph 5a, the data identifying the certificate of type reassessment;*

(d) the data *for identification* of the transportable pressure equipment *to which Pi marking has been applied including at least the serial number or numbers*; and

(e) the date of issue.

Amendment 61

Proposal for a directive Annex III - paragraph 7

Text proposed by the Commission

7. In all other cases the notified body responsible for the periodic inspection shall issue the certificate of reassessment containing as a minimum:

(a) the identification of the notified body;

(b) the name and address of the *owner or his authorised representative established within the Community or the holder specified in paragraph 2*;

(c) the data *for identification* of the transportable pressure equipment *to which Pi marking has been applied including at*

Amendment

7. A certificate of type reassessment shall be issued.

Where the procedure in paragraph 5a is applied the type A body, responsible for the reassessment of conformity, shall issue the certificate of type reassessment containing as a minimum:

(a) the identification of the notified body *issuing the certificate*;

(b) the name and address of the *manufacturer and the holder of the original type approval for the transportable pressure equipment being reassessed when the holder is not the manufacturer*;

(c) the data *identifying the* transportable pressure equipment *belonging to the series*; and

least the serial number or numbers; and

(d) the date of issue

(d) the date of issue,

(e) the words: “this certificate does not authorise the manufacture of transportable pressure equipment or parts thereof”.

Amendment 62

Proposal for a directive

Annex III - paragraph 7 - last part

Text proposed by the Commission

Amendment

By affixing or having affixed the Pi marking, the owner or operator indicates that he takes responsibility for the conformity of the transportable pressure equipment with all applicable requirements set out in the Annexes to Directive 2008/68/EC and in this Directive as applicable at the time of reassessment.

deleted

Amendment 63

Proposal for a directive

Annex III - paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. By affixing or having affixed the Pi marking, the owner or operator indicates that he takes responsibility for the conformity of the transportable pressure equipment with all applicable requirements set out in the Annexes to Directive 2008/68/EC and in this Directive as applicable at the time of reassessment.

Amendment 64

Proposal for a directive Annex III - paragraph 7 b (new)

Text proposed by the Commission

Amendment

7a. Where appropriate, the provisions of Annex II (2) shall be taken into account and the cold marking provided for in that Annex shall also be affixed.

Amendment 65

Proposal for a directive Annex to the draft legislative resolution

Text proposed by the Commission

Amendment

Statement of the European Parliament, the Council and the Commission on Article 290 TFEU

The European Parliament, Council and Commission declare that the provisions of this Regulation shall be without prejudice to any future position of the institutions as regards the implementation of Article 290 TFEU or individual legislative acts containing such provisions.

Statement by the Commission concerning the notification of delegated acts

The European Commission takes note that except in cases where the legislative act provides for an urgency procedure, the European Parliament and the Council consider that the notification of delegated acts shall take into account the periods of recess of the institutions (winter, summer and European elections), in order to ensure that the European Parliament and the Council are able to exercise their prerogatives within the time limits laid down in the relevant legislative acts, and is ready to act accordingly.

EXPLANATORY STATEMENT

Commission proposal

The transport of pressure equipment, such as tanks, receptacles and cylinders is presently governed by [Directive 1999/36/EC](#). The Directive lays down safety requirements for transport by road and by rail. Furthermore, the Directive ensures the free movement of such equipment within the Community, including its placing on the market, by establishing common norms for the design, construction and subsequent checks.

Some technical provisions of the existing Directive conflict with international rules on the transport of dangerous goods, which moreover have been extended to Community legislation by the recently adopted Directive 2008/68/EC on the transport of dangerous goods by road, rail and inland waterways. The Commission have therefore put forward a proposal for a revised Directive, which would repeal the existing Directive on transportable pressure equipment and a number of other related Directives.

The proposal does not entail any substantial changes to the existing regulatory framework as regards the scope and the main provisions. Its most important objective is to remove the above-mentioned inconsistencies by bringing technical requirements in line with international rules on the transport of dangerous goods. Furthermore, it aims to simplify and streamline some provisions, in particular those relating to conformity assessment procedures. Finally, as regards the use of the equipment for transport operations in the internal market, the proposal incorporates provisions of the so-called "New Legislative Framework Regulation" (765/2008/EC). The latter sets a general framework for the marketing of products on the single European market.

Council

Having considered the proposal on various occasions, the Council Working Group produced a draft text, which broadly corresponds to the text proposed by the Commission, introducing only a few modifications. They concern among others:

- A clarification of the definition of "transportable pressure equipment";
- The inclusion of necessary references to "intermediate inspections";
- Clarifications on the reassessment of conformity of existing transportable pressure equipment not previously assessed under the existing Directive;
- The possibility for Member States to limit or prohibit the placing on the market and use of equipment in cases where it presents a risk to safety in certain circumstances;
- A provision exempting private individuals from the obligations of owners of transportable pressure equipment as far as it is used privately or for leisure activities;

In addition, the Council modified the procedure for the adaptation of the Annexes in order to bring them in line with the new provisions on comitology following the entry into force of the

Lisbon Treaty ("delegated acts").

Rapporteur's assessment

Your rapporteur supports the objectives pursued through the revision of the Transportable Equipment Directive (TPED) and believes that the proposal will, once adopted, ensure a high level of safety for transportable pressure equipment and its users. Furthermore, with the exception of the provisions on comitology, the rapporteur welcomes the above clarifications suggested by the Council, which are thus reflected by the amendments proposed in his draft report. Hence, the amendments correspond to the Council's draft text except with regard to the following three points:

- Firstly, it is proposed to adjust the wording of Recital 13 on the reassessment of conformity by inserting a reference to "free use" in order to clarify that a reassessment is not necessary in cases where existing equipment is used on a purely national or regional basis (see amendment 4).
- Secondly, your rapporteur proposes a new Recital 18a which calls on the Commission to produce guidelines that facilitate the practical implementation of the provisions, as is already foreseen under the existing Directive.
- Finally, as far as the new provisions on comitology are concerned, your rapporteur introduced modifications following horizontal advice from Parliament's legal services, which aim at preserving Parliament's prerogatives and meeting its procedural requirements as regards both the revocation of the delegation of powers to the Commission and objections to delegated acts.

Conclusion

The rapporteur estimates that pending a horizontal solution between the institutions regarding the wording of the new comitology provisions, the dossier should be concluded as quickly as possible with an agreement in first reading. The Committee is therefore invited to adopt the report without additional amendments and mandate the rapporteur to enter into negotiations with Council on this basis.

PROCEDURE

Title	Transportable pressure equipment	
References	COM(2009)0482 – C7-0161/2009 – 2009/0131(COD)	
Date submitted to Parliament	18.9.2009	
Committee responsible Date announced in plenary	TRAN 7.10.2009	
Rapporteur(s) Date appointed	Brian Simpson 5.10.2009	
Discussed in committee	23.2.2010	22.3.2010
Date adopted	23.3.2010	
Result of final vote	+: –: 0:	35 0 2
Members present for the final vote	Magdalena Alvarez, Georges Bach, Michael Cramer, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Carlo Fidanza, Knut Fleckenstein, Jacqueline Foster, Mathieu Grosch, Georgios Koumoutsakos, Werner Kuhn, Marian-Jean Marinescu, Gesine Meissner, Hella Ranner, Vilja Savisaar, Olga Sehnalová, Brian Simpson, Dirk Sterckx, Silvia-Adriana Țicău, Georgios Toussas, Giommara Uggias, Thomas Ulmer, Peter van Dalen, Dominique Vlasto, Artur Zasada, Roberts Zīle	
Substitute(s) present for the final vote	Zigmantas Balčytis, Philip Bradbourn, Isabelle Durant, Tanja Fajon, Ádám Kósa, Dominique Riquet, Laurence J.A.J. Stassen, Sabine Wils, Corien Wortmann-Kool, Janusz Władysław Zemke	