

- to maintain and extend the participation of workers in the public sector, joint committees must be set up,
- national and Community manuals should be drawn up to serve as a reference framework for executive tasks,
- within the future European authorities, European service committees should be set up on the lines of the European Works Council,
- questions such as those mentioned in point 9.10 above must be investigated.

Done at Brussels, 22 September 1993.

*The Chairman
of the Economic and Social Committee*

Susanne TIEMANN

Opinion on the proposal for a Council Directive to amend Council Directive 86/662/EEC on the limitation of noise emitted by earthmoving machinery⁽¹⁾

(93/C 304/09)

On 11 June 1993 the Council decided to consult the Economic and Social Committee, under Article 100 A of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 15 September 1993. The Rapporteur was Mr Pearson.

At its 308th Plenary Session (meeting of 22 September 1993) the Economic and Social Committee unanimously adopted the following Opinion.

1. General comments

1.1. The Committee welcomes the Commission's proposal that there should be further amendment to Directive 86/662/EEC agreeing that further reduction in noise levels of earthmoving machinery is necessary. The Commission's concern that the present Directive should not lapse is valid: it would be a retrograde backward step were there no effective Community standard due to the lack of an amending Directive providing for an extension of current limits. The Committee however would point to the following points arising in the details of the Commission's proposal which need attention.

1.2. The Committee is well aware of the nuisance caused by machinery on building and other sites but

feels that the Commission in the Explanatory Memorandum overstated the problem. The overall noise level on an urban site assumes more importance than on a rural site, nevertheless effective Community standards are essential if the noise level is to meet general acceptability.

1.3. The mathematical (logarithmic) element involved in arriving at a decibel level is not always understood. The proposed levels in the draft Directive are significantly lower and will require considerable application to be attained. A balance between viable production of such machines and the social impact on society has to be struck.

1.4. It is accepted that the proposal's simulated testing procedures do attempt to envisage the working conditions of the machines.

⁽¹⁾ OJ No C 157, 9. 6. 1993, p. 7.

1.5. The Directive 86/662/EEC provided for a two-and-a-half year period between the Council Decision and the operative date. The Committee believes that it is very important that this time scale be maintained. The Commission's proposed operational dates are considered to be practical provided the Council Decision is made at an early date, as until the precise levels, as decided upon by Council, are known, no redesign and manufacture can commence. The validity of existing type approvals must be extended in line with the introduction point of the new test method and noise limits.

1.6. There must be close coordination between the main manufacturer/assembler and the suppliers of the 'bought in' parts, these being a high percentage of the whole. Some such components, such as the engines, may be subject to requirements of other Community Directives so that proper liaison will be essential to achieve the programme schedule. The noise level of many 'bought-in' components will need to be reduced.

1.7. The expert group referred to in new Article 8(a) that advises the Commission is composed of those with a wider mandate than a specifically technical industrial expertise. With this in mind the Committee stresses the importance of the practical production advisors and of the effect that changes will have for the benefit of those working with, or in the vicinity of, the machinery.

1.8. Whilst the operators of the machinery are covered by other Community Directives concerning noise, there should be a close relationship to all the relevant Directives.

1.9. The Commission accepts that the proposals will have the effect of increased costs: it is likely to vary between 3% and 5% depending on the category of machinery. New technological and production advance in Europe is such that commercial advantage can result while at the same time social and environmental aspects also benefit, although the total annual cost to consumers in the Community is seen as between ECU 126 and 210 million.

1.10. The Committee is concerned that the provisions being proposed in Article 3.1(c) subsequent to 1999 might not be realistic. The very high percentage of machines to be redesigned (80% of wheeled machines and 50% of others) and the lack of experience of the dynamic procedure for testing noise levels should counsel great care and monitoring before they are enacted in the Directive. The Committee wonders whether it is wise at this time to set limits for the year 2000 without assessing the experience relative to the 1995 deadline as laid down in stage 2 of Directive 86/662/

EEC. The Committee recognizes that further reductions in noise levels will be necessary but feels that the proposed levels should be seen as indicative rather than definitive at this time.

1.11. The Committee believes that the Consultation process, as set out in the Commission Impact Assessment, has not been truly reflected in the text. It is not fair to describe the 'attitude of the representatives of industry as ambivalent' as the manufacturers agree that an amendment to Directive 86/662/EEC is urgently necessary.

2. Specific comments

2.1. *New Article 1*

2.1.1. The tabled proposal for amendments to 86/662/EEC (as amended by 89/514/EEC) is to be subject to Article 100A. Heretofore it has been under Article 100. The Explanatory Memorandum gives no reason for this change although a statement is included in the 'Whereas' section of the document. The Committee agrees Article 100A should be used in this case.

2.1.2. *New Article 1, paragraph 1, concerning Article 3.1 (c)*

This should be deleted in accordance with our comment in 1.10 above.

2.1.3. *New Article 1, paragraph 3*

It is agreed that Article 4 of the 86/662/EEC Directive be deleted.

2.1.4. *New Article 1, paragraph 4*

The Committee believes that this amendment is unjustified: the current Article 5 in Directive 86/662/EEC is satisfactory and should not be changed.

2.1.5. *Article 1, paragraph 5*

This replaces the previous Article 7. Whilst the Committee does not disagree with the aim of economic incentives to place on the market new machines in accordance with the proposals, it would point out that fiscal and economic measures are the prerogatives of the individual Member States. That paragraph should not be retained and the existing Article 7 should also be deleted as it becomes obsolete with the new amending Directive.

2.1.6. New Article 1, paragraph 7

This replaces the previous Article 9. In line with comments in 1.10. and 2.1.1. the existing Article is satisfactory and should not be changed. The amendment should be deleted.

2.2. New Article 2

This should be redrafted to state that the Member States enact the laws, regulations and administrative provisions so that two and a half years is retained for the operative date as from the Council Decision.

3. After due consideration the Committee believes that the minimum noise levels in Article 3(1)(b) should be changed to bases at:

- Tracked machines (except excavators)
 $L_{wa} = 87 + 11 \log P$ (above 107 dB)

- Wheeled dozers, loaders, excavator-loaders
 $L_{wa} = 86 + 11 \log P$ (above 106 dB)
- Excavators
 $L_{wa} = 85 + 11 \log P$ (above 99 dB)

Upper limits should not be included as these will inhibit the development of very large machines which do not have a big effect on noise nuisance for the following reasons:

- a) they are physically of considerable size and bulk operating on large projects away from urban areas (such as dam construction);
- b) for safety reasons no-one works close to such machines;
- c) due to the logarithmic formula for evaluating noise limits the noise level does not increase dramatically with machine size—for example between 1 000 KW and 2 000 KW the noise level will increase by the same amount only as between 100 KW and 200 KW (3,3 dBA).

Done at Brussels, 22 September 1993.

*The Chairman
of the Economic and Social Committee*

Susanne TIEMANN