

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91)167 final - SYN 233

Brussels, 17 May 1991

Re-examined proposal for a

COUNCIL DIRECTIVE

amending Directive 89/392/EEC
on the approximation of the laws of
the Member States
relating to machinery

(presented by the Commission pursuant to Article 149.2(d)
of the EEC treaty)

EXPLANATORY MEMORANDUM

On 17 April 1991 Parliament accepted the common position adopted by the Council on 13 December 1990 and proposed a number of amendments.

This proposal takes into account the amendments proposed by Parliament which the Commission considers can be accepted. The annex contains the amendments proposed by Parliament which the Commission has not accepted, together with its opinion thereon.

**Re-examined proposal for a Council Directive
amending Directive 89/392/EEC
on the approximation of the laws of
the Member States
relating to machinery**

In view of the opinion on the proposal for a Council Directive amending Directive 89/392/EEC on the approximation of the laws of the Member States relating to machinery,² adopted by the European Parliament, on second reading on 17 April,¹ the Commission has decided to amend the proposal for a second time as follows:

1. The third, fourth and fifth indents of Article 1(5) are replaced by the following:

"Member States shall apply the measures in question with effect from 1 January 1993, except as regards the equipment referred to in Directives 86/295/EEC,³ 86/296/EEC⁴ and 86/663/EEC,⁵ for which these provisions shall apply from 1 July 1994."

2 Common position adopted by the Council on 13 December 1990, not published.

1 Not yet published.

3 OJ No L 186, 8.7.1986, p. 1.

4 OJ No L 186, 8.7.1986, p. 10.

5 OJ No L 384, 31.12.1986, p. 12.

2. Furthermore, Member States shall allow machinery complying with the national regulations in force on their territory on 31 December 1992 to be marketed and put into service during the period ending on 31 December 1994.

With effect from 1 July 1994 Directives 86/295/EEC, 86/296/EEC and 86/663/EEC shall not impede the implementation of paragraph 1."

2. The first line of Article 2 is replaced by the following:

"The following shall be repealed as from 31 December 1994:".

3. The second indent of point 3.3.3 in Annex I is replaced by the following:

"The driver must be able to slow down and stop self-propelled machinery by means of a main device. Where safety so requires in the event of a failure of the main device or if there is no energy supply to actuate the main device, an emergency device with fully independent and easily accessible controls must be provided for slowing down and stopping."

4. The first indent of point 4.2.4 in Annex I is replaced by the following:

"When either manually or power-operated machines and lifting accessories which are ready for use are marketed or first put into service, their manufacturer or his authorized representative established within the Community must ensure, by taking appropriate measures or having such taken, that they can perform their specified functions in complete safety. Said measures must take account of the static and dynamic aspects of the machinery."

ANNEX

In addition to the amendments taken into account in the re-examined proposal, Parliament proposed two further amendments. The Commission has re-examined the proposal and decided not to accept these amendments for the following reasons:

1. Amendment of the second indent of Article 1(1)(b):

Common position

Amendment

"- the second indent shall be replaced by the following:

Deleted

"-lifting equipment designed and constructed for raising and/or moving persons with or without loads, except for industrial handling trucks with an elevating operator's position".

Machinery for lifting persons requires essential safety requirements additional to those laid down for lifting loads (requirements regarding the car, the control circuits, etc.).

It is accordingly not acceptable to include such machinery in the proposal without amending the essential requirements.

Later this year the Commission will present a second amendment to Directive 89/392/EEC in order to include machinery for lifting persons, and a separate Directive for lifts permanently installed in buildings.

2. Amendment of point 4.1.2.4, paragraph 5, in Annex I:

Common position

Amendment

"The manufacturer or his authorized representative established within the Community must, for each type of chain and rope used directly for lifting the load, and for the rope ends, conduct appropriate tests or have such tests performed in order to verify that an adequate working coefficient has been attained."

Deleted.

The proposal for a Directive put forward by the Commission (COM(89) 624 final - SYN 233) provided for the ropes and chains to be included in the list contained in Annex IV (equipment for which EC type-examination is compulsory).

The Council having deleted this obligation and replaced it by point 4.1.2.4, paragraph 5 its deletion cannot be accepted by the Commission, since it is essential that the manufacturer or the person appointed by him verifies that such equipment provides a high level of safety; this examination is to be carried out on each type of equipment and not on each item.

In view of the above, the Commission retains the text on which the Council adopted its common position on 13 December 1990.

COM(91) 167 final

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