COUNCIL DIRECTIVE

of 24 July 1986

on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment

(86/361/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas the mutual recognition of type approval for telecommunications terminal equipment features in the Commission communication to the Council of 18 May 1984 on telecommunications, in the Council recommendations of 12 November 1984 concerning the implementation of harmonization in the field of telecommunications and the first phase of opening up access to public telecommunications contracts, and in the Council conclusions of 17 December 1984 concerning a Community telecommunications policy;

Whereas the market in telecommunications terminal equipment and use of the full potential of the new telecommunications services are of considerable importance for the economic development of the Community;

Whereas it is absolutely essential to establish or consolidate a specifically European industrial potential in the technologies concerned;

Whereas it is highly desirable to make rapid progress towards establishing a common market in this sector, in particular in order to offer the industry an improved base for its operations and to facilitate the adoption of a joint position with respect to third countries;

Whereas the mutual recognition of type approval for telecommunications terminal equipment constitutes a major step towards the creation of an open and unified market for such equipment;

Whereas, since situations differ and technical and administrative constraints exist in the Member States, progress towards this objective should be made in stages;

Whereas in particular the mutual recognition of conformity tests on mass-produced terminal equipment should constitute an initial stage of the mutual recognition of type approval for such equipment;

Whereas such an approach must be based on the definition of common technical specifications based on international standards and specifications and on the harmonization of general technical requirements for testing, measuring and approval procedures in the areas of telecommunications and information technology;

Whereas a general standardization programme is being implemented in the field of information technology in compliance with the Standards Code of the General Agreement on Tariffs and Trade (GATT);

Whereas there is a need for a more comprehensive framework to be drawn up in preparation for a second stage which would create an open and unified market in telecommunications terminal equipment, bearing in mind that for telecommunications this has to include both the free movement of equipment and unimpeded connection to networks, in accordance with the harmonized requirements;

Whereas Council Directive 73/23/EEC of 19 February 1973 on the harmonization of the laws of the Member States relating to electrical equipment designed for use within certain voltage limits (3) and Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations (4) are applicable, *inter alia,* to the fields of telecommunications and information technology;

Whereas the Memorandum of Understanding between the European Conference of Postal and Telecommunications Administrations (CEPT) and the Commission concerning standards and type approval for telecommunications equipment and the general guidelines agreed with the Joint European Standards Institution CEN-CENELEC henceforth make it possible to entrust specialized technical harmonization work to those bodies:

Whereas the mechanism introduced by certain CEPT administrations, including those of the Community Member States, under the agreement drawn up at Copenhagen on 15 November 1985, incorporates a formal adoption procedure and an undertaking to implement certain CEPT recommendations, which are then designated as 'NETS' (Normes européennes de télécommunications);

(1) OJ No C 36, 17. 2. 1986, p. 55.
(2) OJ No C 303, 25. 11. 1985, p. 2.
(3) OJ No L 77, 26. 3. 1973, p. 29.
(4) OJ No L 109, 26. 4. 1983, p. 8.

Whereas it is necessary to set up a Committee, with the task of assisting the Commission in implementing this Directive and in progressively implementing the mutual recognition of type approval for terminal equipment,

HAS ADOPTED THIS DIRECTIVE :

Article 1

The Member States shall implement the mutual recognition of the results of tests of conformity with common conformity specifications for mass-produced telecommunications terminal equipment in accordance with the detailed rules set out in this Directive.

Article 2

For the purposes of this Directive :

1. 'telecommunications administrations' means the administrations or private operating agencies recognized in the Community and providing public telecommunications services ;

2. 'terminal equipment' means equipment directly or indirectly connected to the termination of a public telecommunications network to send, process or receive information ;

3. 'technical specification' means a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards terminology, symbols, testing and test methods, packaging, marking and labelling ;

4. 'international technical specification in telecommunications' means the technical specification of all or some characteristics of a product, recommended by such organizations as the Comité international télégraphique et téléphonique (CCITT) or the CEPT ;

5. 'common technical specification' means a technical specification drawn up with a view to uniform application in all Member States of the Community ;

6. 'standard' means a technical specification adopted by a recognized standards body for repeated or continuous application, compliance with which is not compulsory ;

7. 'international standard' means a standard adopted by a recognized international standards body ;

8. 'approved testing laboratory' means a laboratory the conformity of which with the accreditation system established by the CEPT in close cooperation with specialized organizations and any relevant national accreditation organizations has been verified, with particular reference to the relevant ISO guides, by the appropriate Member State or a body recognized as competent by that State and which is approved by that Member State or body recognized as competent for conducting conformity tests on terminal equipment ;

9. 'certificate of conformity' means the document certifying that a product or service conforms to given standards or technical specifications ;

10. 'type approval of terminal equipment' means the confirmation delivered by the competent authority of a Member State that a particular terminal equipment type is authorized or recognized as suitable to be connected to a particular public telecommunications network ;

11. 'conformity specification' means a document giving a precise and full description of the technical characteristics of the relevant terminal equipment (such as safety, technical parameters, functions and procedures and service requirements) together with a precise definition of the tests and test methods enabling the conformity of the terminal equipment with the prescribed technical characteristics to be verified ;

12. 'type approval specification' means a specification setting out the full and precise requirements that must be satisfied by terminal equipment to be granted type approval. It includes the conformity specification and also administrative requirements and, where appropriate, requirements concerning quality control operations to be carried out during the manufacture of the equipment ;

13. 'common conformity specification' means a conformity specification used in all the Community Member States by the authority competent for testing the conformity of terminal equipment. It also includes, where appropriate, requirements made necessary in a given State by historical network peculiarities or established national provisions concerning the use of radio frequencies ;

14. 'common type approval specification' means a type approval specification which is used in all the Community Member States by all the authorities empowered to grant type approval for terminal equipment. It includes the common conformity specification and also administrative requirements and, where appropriate, requirements concerning quality control operations to be carried out during the manufacture of the equipment ;

15. 'NET' (Norme européenne de télécommunications) is an approved technical specification recommendation of the CEPT or part or parts thereof which the signatories of the Memorandum of Understanding, established at the meeting of Directors-General of CEPT Administrations, in Copenhagen on 15 November 1985, adopted in accordance with the procedures set down in that Memorandum ;