COUNCIL DIRECTIVE

of 17 September 1984

on the approximation of the laws of the Member States relating to common provisions for construction plant and equipment

(84/532/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 (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, in each Member State, construction plant and equipment must have certain technical characteristics which are laid down in mandatory requirements; whereas these requirements differ from one Member State to another; whereas these differences hinder trade within the European Community;

Whereas such obstacles to the establishment and functioning of the common market can be reduced and eliminated if the same requirements are adopted by all the Member States either in addition to or in place of their present laws;

Whereas the requirements of this Directive are applicable to construction plant and equipment, and are aimed primarily at ensuring the protection of the environment from airborne noise and safety at work except where this is directly associated with lifting equipment; whereas, therefore, lifting appliances on worksites will, if necessary, form the subject of special requirements;

Whereas, verification that technical requirements have been observed is necessary in order that users and others may be properly protected; whereas the existing inspection procedures differ from one Member State to another and, in order to achieve free movement of construction plant and equipment within the common market and avoid multiple inspections, which constitute obstacles to the free movement of such plant and equipment, provision should be made for mutual recognition of inspections between the Member States;

Whereas, in order to assist this mutual recognition of inspections, suitable administrative procedures to be followed prior to the marketing of appliances should be introduced, viz. EEC type-approval, EEC type-examination, EEC verification and EEC self-certification; whereas there should be harmonization of the criteria to be applied when appointing the approved bodies for carrying out EEC type-examinations;

Whereas the national regulations relating to construction plant and equipment cover numerous categories of plant and equipment with widely varying uses; whereas it is therefore desirable to lay down in this Directive general provisions on the procedures for EEC type-approval, EEC type-examination, EEC verification and EEC self-certification; whereas separate Directives for each category of construction plant and equipment lay down the requirements relating to the technical construction, the methods for inspecting such plant and equipment and, where appropriate, the conditions under which Community technical requirements are to be substituted for the national provisions which already exist;

Whereas this Directive does not different the provisions of Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers (4), as last amended by Directive 80/1267/EEC (5);

Whereas it is conceivable that construction plant or equipment placed on the market may meet the requirements of the relevant separate Directives but nevertheless represent a hazard to health or safety;

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(1) OJ No C 82, 14. 4. 1975, p. 91.
(2) OJ No C 76, 7. 4. 1975, p. 37.
(3) OJ No C 263, 17. 11. 1975, p. 42.

(4) OJ No L 42, 23. 2. 1970, p. 1.
(5) OJ No L 375, 31. 12. 1980, p. 34.

whereas it is therefore necessary to lay down a procedure to reduce that risk;

Whereas, in order to take account of technical progress, a prompt adaptation of the technical requirements specified in the Directives on construction plant and equipment is necessary; whereas, in order to facilitate application of the measures necessary for this purpose, there should be a procedure for setting up close cooperation between the Member States and the Commission within a Committee for the adaptation to technical progress of the Directives on the elimination of technical barriers to intra-Community trade in construction plant and equipment,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

Definitions

Article 1

1. For the purposes of this Directive, 'construction plant and equipment' means all machinery, appliances, plant and installations or components thereof which are used, according to their type, to perform work on civil engineering and building sites but which are not primarily intended for the transport of goods or persons.

2. This Directive shall apply only to civil engineering and building equipment as defined in paragraph 1, for which detailed rules are laid down in the separate Directives mentioned in Article 3.

3. Agricultural and forestry tractors and lifting appliances are excluded from the scope of this Directive.

Article 2

For the purposes of this Directive:

'EEC type-approval' means the procedure whereby a Member State establishes, following tests, and certifies that a type of equipment referred to in Article 1 conforms to the requirements harmonized under the relevant separate Directives;

'EEC type-examination' means the procedure whereby a body approved for that purpose by a Member State establishes, following tests, and certifies that a type of equipment conforms to the harmonized requirements under this Directives;

'EEC verification' means the procedure whereby a Member State can affirm, following tests, that each item of equipment conforms to the harmonized requirements under this Directive and under the relevant separate Directives;

'EEC self-certification' means the procedure whereby the manufacturer, or the authorized representative established in the Community, certifies, on his own responsibility, that an item of equipment conforms to the harmonized requirements under this Directive and the relevant separate Directives.

Article 3

1. For all equipment, general Directives shall define the harmonized requirements, in particular those concerning safety at work and the method of measuring the sound emission level of equipment.

2. Separate Directives shall specify the technical requirements for the construction and functioning of the categories of equipment to which they refer and shall further state which of the procedures referred to in Article 2 is applicable.

CHAPTER II

EEC type-approval

Article 4

1. Where it is provided for in a separate Directive, EEC type-approval shall be a prerequisite for the marketing, planing into service and use of an item of equipment.

2. Member States shall, at the request of the manufacturer, or of his authorized representative established in the Community, grant EEC type-approval for any type of equipment which conforms to the requirements of this Directive and of the relevant separate Directive.

3. An application for EEC type-approval for a given type of equipment may be submitted in only one Member State.

4. Member States shall grant, refuse, suspend or withdraw EEC type-approval in accordance with the provisions of this chapter and of Annex I.

5. For the tests which form part of an EEC type-approval, a Member State may obtain the assistance of one or more laboratories.

Article 5

1. If the results of the tests provided for in Annex I, section 2, are satisfactory, the Member State which carried out the tests shall make out an EEC type-approval certificate, which shall be forwarded to the applicant.

The EEC type-approval certificate may be subject to conditions laid down in the separate Directives.

2. A model EEC type-approval certificate is shown in Annex III.

3. The EEC type-approval certificate shall be subject to any conditions and to any limitation on the period of validity which may be laid down in the separate Directives.

Article 6

1. The Member State which has granted EEC type-approval shall take the necessary measures, if need be in cooperation with other Member States, to ensure the conformity of the manufactured equipment with the approved type.

2. Details of the measures provided for in the previous paragraph shall be laid down in separate Directives. These measures may include supervision by means of spot checks.

Article 7

1. If a Member State which has granted EEC type-approval finds that some samples of an item of equipment for which such type-approval has been granted fail to conform to the type, it shall suspend or withdraw the approval.

2. The EEC type-approval may, however, be maintained where the differences recorded are minimal or have no fundamental effect on the design of the equipment and in no way represent a hazard to personal safety or the environment; in such cases, the Member State shall request the manufacturer to make the appropriate manufacturing changes as soon as possible. The Member States shall withdraw type-approval if the manufacturer fails to comply with this request.

3. The Member State which granted EEC type-approval shall also withdraw it if it finds that the approval should not have been granted.

4. Furthermore, if the said Member State is informed by another Member State of the existence of one of the cases referred to in paragraphs 1, 2 and 3, it shall, after consulting that State, act in accordance with the provisions of those paragraphs.

5. Where the advisability or necessity of withdrawing approval is the subject of dispute between the competent authorities of the Member State which has granted EEC type-approval and those of another Member State, the Commission shall be kept informed. It shall, where necessary, hold appropriate consultations in order to arrive at a solution.

6. Only the Member State which granted EEC type-approval may decide to withdraw it; it shall forthwith notify the other Member States and the Commission of any such decision.

CHAPTER III

EEC type-examination

Article 8

1. Where it is stipulated in a separate Directive, EEC type-examination shall be a prerequisite for the marketing, placing into service and use of an item of equipment.

2. EEC type-examinations shall be carried out by bodies approved for this purpose by the Member States.

Article 9

1. Approved bodies appointed by Member States to carry out EEC type-examination in accordance with Article 10 shall comply with the minimum criteria laid down in Annex II.

The fact that a body complies with the minimum criteria does not mean that a Member State is obliged to approve that body.

2. Where a Member State has approved a body or bodies to carry out EEC type-examinations, it shall notify the other Member States and the Commission of the body or bodies concerned. It shall also notify the other Member States and the Commission of any subsequent amendments to these particulars.

Article 10

1. The approved bodies referred to in Article 9 shall, at the request of the manufacturer, or of his authorized

representative established in the Community, grant an EEC type-examination certificate for any type of equipment which conforms to the requirements of this Directive and of the relevant separate Directive and in respect of which the manufacturer has undertaken to comply with the conditions laid down in the separate Directives.

2. An application for EEC type-examination for a given type of equipment may be submitted to only one of the approved bodies.

3. The approved bodies shall grant, refuse, suspend or withdraw EEC type-examination certificates in accordance with the provisions of this chapter and of Annex I.

Article 11

1. The EEC type-examination certificate shall conform to the model given in Annex III.

2. The EEC type-examination certificate shall be subject to any conditions and to any limitation on the period of validity which may be laid down in the separate Directives.

Article 12

1. The approved body which granted the EEC type-examination certificate shall take the necessary measures to ensure the conformity of the manufactured equipment with the type examined.

2. Details of the measures provided for in the previous paragraph shall be laid down in separate Directives. These measures may include supervision by means of spot checks.

Article 13

1. If an approved body finds that samples of equipment of the type for which it has issued an EEC type-examination certificate fail to conform to that type, it shall request the holder of the certificate to rectify production within a specified period, if necessary suspending the certificate in the meantime. Where necessary, the separate Directive on the equipment concerned shall determine the number of samples deemed sufficient to justify action on the part of the approved body. If the manufacturer fails to comply with this request within the specified period, the approved body shall suspend or withdraw the certificate.

2. The approved body shall withdraw the EEC type-examination certificate which it has issued if it finds that it should not have been granted.

3. It shall suspend or withdraw the certificate if the holder fails to fulfil the undertakings to the approved body which are referred to in Article 10.

Article 14

1. Member States shall ensure that the approved bodies carry out the aforementioned tasks correctly.

To this end they shall, by appropriate measures, oblige the approved bodies to allow the competent authorities of the Member State which appointed them to make checks at any time.

2. Member States shall take the necessary steps to ensure that the applicant or the person to whom the EEC type-examination certificate was issued is able to appeal against decisions by the approved body to refuse, withdraw or suspend the EEC type-examination certificate.

3. If a Member State finds that a body which it has appointed is not correctly fulfilling the tasks referred to in Articles 10 and 13, it shall take all appropriate steps with regard to that body.

4. The Member State shall in any event withdraw approval from a body which it has appointed if it finds that that body has ceased to satisfy the minimum criteria laid down in Annex II or that it does not comply with the conditions set by the Member State.

5. If a Member State does not withdraw approval from a body which no longer satisfies the minimum criteria, any other Member State may bring the situation to the attention of the Commission. The Commission shall take the appropriate steps to find a solution.

Article 15

1. A Member State which withdraws approval from a body shall take all necessary steps to ensure continuity

in the fulfilment of the obligations and duties resulting from the issue of EEC type-examination certificates by that body before the withdrawal of approval.

2. The Member State shall annul all certificates issued by that body before withdrawal of approval if they were issued improperly.

Article 16

1. If one of the cases referred to in Article 13 is found to exist in a Member State, the competent authorities of that Member State shall bring this fact to the attention of the Member State in which the certificate was issued.

2. The competent authorities of the latter Member State shall oblige the approved body concerned to take the steps provided for in Article 13.

3. In the event of a dispute between the Member State in which an EEC type-examination certificate was issued and another Member State, the Commission shall be informed and shall take appropriate steps.

CHAPTER IV

EEC verification and EEC self-certification

Article 17

1. Separate Directives as provided for in Article 3 (2) which stipulate EEC verification or EEC self-certification shall lay down the procedure to be followed.

2. In the case of self-certification, the Member States shall take steps to ensure that the equipment satisfies the requirements of the separate Directives.

CHAPTER V

Common provisions

Article 18

1. The manufacturer, or his authorized representative established in the Community, shall issue an EEC certificate of conformity, a model of which is given in Annex IV, for each item of a given type of equipment which is manufactured in accordance with the harmonized requirements and which conforms to the type approved or examined.

2. If so required by a separate Directive, the manufacturer shall affix to the equipment the mark together with the information specified in that separate Directive.

3. Costs arising from application of the procedures laid down in a separate Directive shall be borne by the applicant.

CHAPTER VI

Harmonized technical requirements

Article 19

1. No Member State may prohibit, refuse or restrict the marketing, placing into service and use, subject to the conditions laid down in paragraph 4 and in the separate Directives, of any equipment on grounds relating to its construction or functioning within the meaning of the relevant separate Directives, or the checking thereof, where such equipment complies with the requirements of this Directive and the relevant separate Directives.

2. The Member States shall take all appropriate steps to ensure that their competent administrative authorities accept the certificate of conformity referred to in Article 18 and, where separate Directives so require, a conformity mark affixed to the equipment as a presumption of conformity with the provisions of the previous paragraph.

3. A Member State may require that this certificate be drawn up in its own national language or languages when equipment is offered for sale to the consumer in its territory.

4. If they are not subject to other Community provisions, the conditions of use shall remain subject to the laws, regulations and administrative provisions of the country of destination; with particular regard to noise, the use of construction plant and equipment may be subject to restrictions within geographically limited zones.

National laws, regulations and administrative provisions governing conditions of use may not result in discrimination over the use of equipment covered by this Directive which is manufactured in other States.

Article 20

1. If a Member State has good grounds for believing that an item of equipment represents a hazard to safety or health, although satisfying the requirements of this