COUNCIL DIRECTIVE

of 17 September 1984

on the approximation of the laws of the Member States relating to common provisions for lifting and mechanical handling appliances

(84/528/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 mandatory provisions determine the technical characteristics of construction, verification and/or the operation of lifting and mechanical handling appliances; whereas these requirements differ from one Member State to another; whereas such differences hinder trade and may create unequal conditions of competition within the Community;

Whereas these hindrances to the establishment and functioning of the common market can be reduced or indeed eliminated if the same requirements apply in each of the Member States either in addition to or in place of their existing laws;

Whereas a check on compliance with these technical requirements is necessary to provide effective protection for users and third parties; whereas the existing inspection procedures differ from one Member State to another; whereas in order to achieve free movement of lifting and mechanical handling appliances within the common market and to obviate multiple inspections which are in effect barriers to the free movement of these appliances, arrangements should be made for the mutual recognition of inspection procedures by the Member States;

Whereas in order to facilitate this mutual recognition of inspection procedures it is necessary, in particular, to establish appropriate administrative procedures before these machines are placed on the market, namely: EEC type-approval/component type-approval, EEC type-examination, EEC verification, EEC inspection and EEC self-certification; whereas it is necessary to harmonize the criteria to be considered when appointing the approved bodies responsible for carrying out EEC type-examination;

Whereas in each Member State the responsibility of the bodies carrying out the checks is defined differently, making harmonization necessary;

Whereas the presence on a lifting or mechanical handling appliance or component of EEC marks showing that it has undergone the appropriate inspection indicates that it satisfies the relevant technical requirements and therefore makes it unnecessary, on importation, to repeat the inspections which have already been carried out;

Whereas national rules concerning lifting and mechanical handling appliances cover numerous categories of lifting and mechanical handling appliances of widely varying uses, capacities and loads; whereas this Directive should lay down the general provisions dealing, in particular, with EEC type-approval, EEC component type-approval, EEC type-examination, EEC verification, EEC inspection and EEC self-certification procedures; whereas separate Directives for each category of lifting and mechanical handling appliance will lay down the technical requirements as to design, inspection procedures for the appliances and their components and, where appropriate, the conditions under which Community technical requirements are to replace the national provisions in force;

Whereas this Directive shall not affect the provisions of Directive 70/156/EEC (4);

Whereas technical progress requires prompt adaptation of the technical requirements specified in the Directives relating to lifting and mechanical handling appliances; whereas in order to facilitate the implementation of the measures necessary to this end, it is necessary to ensure

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(1) OJ No C 221, 29. 9. 1975, p. 1.
(2) OJ No C 7, 12. 1. 1976, p. 37.
(3) OJ No C 131, 12. 6. 1976, p. 31.

(4) OJ No L 42, 23. 2. 1970, p. 1.

close cooperation between the Member States and the Commission within the Committee for Adaptation to Technical Progress of the Directives for Removing Technical Barriers to Trade in Lifting Appliances and Equipment, established by Council Directive 73/361/EEC of 19 November 1973 on the approximation of the laws regulations and administrative provisions of the Member States relating to the certification and marking of wire-ropes, chains and hooks (1), as amended by the 1979 Act of Accession;

Whereas lifting and mechanical handling appliances placed on the market, although conforming to the requirements of the relevant separate Directive, might nevertheless constitute a safety hazard; whereas provision should therefore be made for a procedure to reduce this hazard,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

Definitions and scope

Article 1

1. For the purposes of this Directive, 'lifting and mechanical handling appliances' means all lifting and mechanical handling appliances which are electrically, hydraulically or mechanically operated, such as lifts, civil engineering hoists, goods lifts, cranes, conveyor belts and motorized trucks.

2. For the purposes of this Directive, 'component' means any part of a lifting or mechanical handling appliance as defined in the separate Directives.

3. This Directive does not cover lifting or mechanical handling appliances specially designed for military or research purposes, or those used on ships, on offshore prospecting and drilling rigs, in mines or for the handling of radioactive materials.

Article 2

1. For the purposes of this Directive:

'EEC type-approval/component type-approval' means the procedure whereby a Member State establishes, following tests, and certifies that a type of lifting or mechanical handling appliance and/or component referred to in Article 1 conforms to the requirements harmonized under this Directive and the relevant separate Directives;

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

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

'EEC inspection' means the procedure whereby the body approved for that purpose by a Member State establishes, after issuing an EEC type-examination certificate in accordance with this Directive and the relevant separate Directives, that the appliances and/or components have been manufactured in conformity with the approved types;

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

2. The separate Directives shall — having regard where appropriate to the manner in which such appliances are used — lay down the technical requirements and the inspection, testing and, where necessary, operating procedures for the categories of lifting and mechanical handling appliances and/or components to which they relate and which are referred to in Article 1.

They shall specify which procedure(s) referred to in paragraph 1 shall apply to a particular category of appliances and/or components.

The separate Directives may also require Member States to take, either upon their entry into force or at a later specified date, all necessary measures to prevent the placing on the market or putting into service for a purpose for which they were intended of lifting or mechanical handling appliances and/or components which do not meet the requirements of the relevant separate Directives.

Article 3

1. For the purposes of this Directive, an 'EEC-type lifting or mechanical handling appliance and/or

(1) OJ No L 335, 5. 12. 1973, p. 51.

component' means any appliance and/or component which satisfies the requirements of this Directive and of the relevant separate Directives and which accordingly bears the EEC mark of conformity referred to in Article 20.

2. No Member State may refuse, prohibit or restrict the placing on the market or putting into service for a purpose for which it was intended of an EEC-type appliance and/or component on grounds relating to its construction or to the inspection thereof.

3. However, provision may be made in the separate Directives for inspection by the Member State concerned of an EEC-type appliance and/or component when it is being installed or put into service, and periodically thereafter.

Article 4

Member States shall attach the same value to EEC type-approval/component type-approval, EEC verification, EEC type-examination, EEC inspection and EEC self-certification as to the corresponding national procedures.

CHAPTER II

EEC type-approval/component type-approval

Article 5

1. Where it is provided for in a separate Directive, EEC type-approval/component type-approval shall be a prerequisite for the placing on the market and the putting into service of an appliance and/or component.

2. Member States shall, at the request of a manufacturer, or his authorized representative established in the Community, grant EEC type-approval/component type-approval for any type of lifting or mechanical handling appliance and/or component which satisfies the requirements of this Directive and the relevant separate Directives.

3. For a given type of lifting or mechanical handling appliance and/or component, an application for EEC type-approval/component type-approval shall be submitted in only one Member State.

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

Article 6

1. The Member State granting EEC type-approval/component type-approval shall make out an EEC type-approval/component type-approval certificate which shall be forwarded to the applicant without delay.

The EEC type-approval/component type-approval certificate must be drawn up in accordance with the model given in Annex III.

2. The separate Directives may lay down that EEC type-approval/component type-approval shall be subject to certain conditions or time limits.

3. If the separate Directive so requires, the manufacturer shall inform the Member State of the date on which he will begin mass production of an EEC-type appliance and/or component.

Article 7

1. If a Member State which has granted EEC type-approval/component type-approval finds that one or more appliances and/or components for which such approval has been granted fail to conform to the type, it shall suspend or withdraw the approval.

2. The EEC approval may, however, be maintained where the State considers that the differences established are minor, have no fundamental effect on the design of the appliance and/or component and in no way represent a hazard to safety or health; in this case, the Member State may request the manufacturer to make the appropriate manufacturing changes as soon as possible. However, where the requirements of the separate Directive have not been complied with, the Member State must request that the appropriate changes be made.

The Member State must withdraw the approval if the manufacturer fails to comply with this request.

3. The Member State which granted EEC type-approval/component type-approval must also withdraw it if it finds that the approval should not have been granted or that the conditions referred to in Article 6 (2) have not been fulfilled.

4. Furthermore, if the Member State which granted EEC type-approval/component type-approval 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 the latter State, act in accordance with the provisions of those paragraphs.

5. Where the advisability or necessity of suspending or withdrawing approval is the subject of dispute between

the Member State which granted the EEC type-approval/component type-approval and 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 that Member State which granted the EEC type-approval/component type-approval may decide to suspend or withdraw it. It shall forthwith notify the other Member States and the Commission of any such decision, giving, as far as possible, such detailed information as may be required for identification of the equipment which does not conform to the approved type.

CHAPTER III

EEC verification and self-certification

Article 8

The separate Directives which provide for EEC verification or EEC self-certification shall specify the procedure to be followed.

CHAPTER IV

EEC type-examination and EEC type-examination certificate

Article 9

1. Where it is provided for in a separate Directive, EEC type-examination shall be a prerequisite for the placing on the market and the putting into service of an appliance and/or component.

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

Article 10

1. Approved bodies appointed by Member States to carry out EEC type-examination in accordance with Article 11 shall comply with the minimum criteria laid down in Annex II, without prejudice to Member States' competence to take such measures and lay down such conditions as they consider necessary at national level to ensure that these bodies operate in an efficient, coordinated and exemplary fashion.

Compliance with the minimum criteria by a body shall not oblige a Member State to approve that body.

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

Article 11

1. The EEC type-examination certificate shall be the document by which an approved body certifies that a type of appliance and/or component conforms to the requirements of this Directive and the relevant separate Directives.

At the request of the manufacturer, or his authorized representative established in the Community, the approved bodies referred to in Article 10 shall carry out the EEC type-examination of a type of appliance and/or component. If the type meets the requirements of this Directive and of the relevant separate Directives and if the manufacturer undertakes to comply with the conditions referred to in Article 17 and in the separate Directives, the approved body shall issue an EEC type-examination certificate. This certificate shall conform to the model given in Annex III, save where otherwise provided in the separate Directives.

The appliances and/or components which are to be manufactured following certification of EEC type-examination must conform to the appliance thus certified.

2. The approved bodies shall issue, refuse to issue, suspend or withdraw EEC type-examination certificates in accordance with the provisions of this Chapter and of Annex I.

3. Applications for EEC type-examination relating to the same type of appliance shall be submitted to only one of the approved bodies.

4. The EEC type-examination certificate shall be subject to the conditions contained in Article 17 and may also be issued for a limited period or be subject to other conditions stipulated in the separate Directives.

5. The requirements governing EEC certification are given in Annex I.

Article 12

1. If an approved body finds that one or more samples of an appliance and/or component of the type for which it has issued an EEC type-examination certificate fail to conform to that type, is shall request the holder of the certificate to rectify production within a specified period, if necessary suspending the certificate. Where necessary, the separate Directive relating to the appliance and/or component concerned shall fix the number of samples deemed sufficient to justify intervention by the approved body. Failing rectification within the specified period the approved body shall suspend or withdraw the certificate.

2. The approved body which has granted the EEC type-examination certificate must withdraw it if it finds that the certificate should not have been granted or that the conditions referred to in Article 11 (4) have not been fulfilled.

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 Articles 11 and 17.

Article 13

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 States which appointed them to make checks at any time.

2. A Member State may authorize a body approved by it, without thereby restricting that body's own responsibility, to entrust to one or more laboratories the task of carrying out the tests to be conducted in the context of the EEC type-examination and the EEC inspection provided for in Chapter V, provided that these laboratories satisfy the criteria laid down in sections 2, 3, 4 and 7 of Annex II.

3. 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, suspend or withdraw the EEC type-examination certificate.

4. If a Member State finds that a body which it has approved is not correctly fulfilling the tasks referred to in Articles 11 and 12, such Member State shall take all appropriate steps with regard to that body.

5. The Member State shall in any event withdraw approval from an approved body 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.

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

Article 14

1. A Member State which withdraws approval from a body shall take all necessary steps to ensure continuity with regard to 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 must withdraw all certificates issued by that body before withdrawal of approval if they were issued improperly.

Article 15

1. If one of the cases referred to in Article 12 is noted 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 Member State in which the EEC type-examination certificate was issued shall oblige the approved body concerned to take the steps provided for in Article 12.

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 V

EEC inspection

Article 16

Member States shall ensure that EEC inspection, the aim of which is to ensure correct use of the EEC mark, is carried out. Inspection may be carried out by the