COUNCIL DIRECTIVE

of 18 December 1975

on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres

(76/117/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 national legislation in force to ensure the safety of electrical equipment for use in potentially explosive atmospheres differs from one Member State to another, thus constituting a barrier to trade;

Whereas such differences may be eliminated if electrical equipment for use in potentially explosive atmospheres is required to comply with harmonized technical standards;

Whereas, however, the possibility should be borne in mind that certain types of equipment may offer an equivalent degree of safety to that of the harmonized standards although not complying with these standards;

Whereas provision should be made for an approved body to check that such equipment complies with the harmonized standards or offers a degree of safety which is at least equivalent; whereas inspections must cover not only the documentation but also the construction and assembly of the equipment;

Whereas certificates and marks recognized in all Member States must be used to certify that the equipment has passed these inspections;

Whereas the technical specifications prescribed in the Directives concerning electrical equipment for use in potentially explosive atmospheres need to be promptly adapted in line with technical progress; whereas, to facilitate the implementation of the appropriate necessary measures, a procedure should be laid down for close cooperation between the Member States and the Commission within a Committee on the adaptation to technical progress of the Directives on the removal of technical barriers to trade in electrical equipment for use in potentially explosive atmospheres;

Whereas it is possible that equipment for use in potentially explosive atmospheres, even though it has been certified and marked for free movement, may represent a safety risk; whereas a procedure should therefore be laid down to obviate this risk,

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive shall apply to electrical equipment capable of use in a potentially explosive atmosphere with the exception of equipment designed for work underground in mines susceptible to fire damp and of medical equipment.

Article 2

For the purposes of this Directive 'electrical equipment' means any constituent part of an electrical installation or any other electrical device.

Article 3

A 'potentially explosive atmosphere' exists in spaces in which dangerous quantities of flammable substances may occur in the form of gas, vapour, haze or dust capable of combining with air to form potentially explosive mixtures.

(1) OJ No C 87, 2. 9. 1971, p. 4.
(2) OJ No C 41, 29. 4. 1971, p. 6.

Article 4

1. Member States may not, on grounds of safety requirements for the design and manufacture of electrical equipment for use in a potentially explosive atmosphere, prohibit the sale or free movement or the use, for its proper purpose, of the electrical equipment referred to in Articles 1 and 2:

— if its conformity with the harmonized standards is attested by the certificate of conformity referred to in Article 8 validated by the affixing of the distinctive mark provided for in Article 10;

— if it differs from harmonized standards but a special inspection of its fabrication has established that it offers a degree of safety at least equivalent to that of the standards in question, and this is attested by an inspection certificate issued under the conditions laid down in Article 9, and validated by the affixing of the distinctive mark provided for in Article 10.

2. For the purposes of this Article, use for its proper purpose means the use of equipment in conjunction with gases, vapours, hazes or dusts capable of combining with air to form potentially explosive mixtures, as provided for in the harmonized standards of fabrication and as recorded in the certificates of conformity or inspection.

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

3. Where they are not subject to other Community provisions, installation conditions shall remain subject to the laws, regulations and administrative provisions of the country of destination.

4. For the purposes of this Directive harmonized standards are those to which reference will subsequently be made in specific Council Directives.

5. The specific Directives referred to in paragraph 4 may, in the case of certain equipment with simplified protection designed for use solely in spaces where the danger is limited, stipulate that conformity with the relevant harmonized standards may be attested by means of a less complex procedure, which may simply consist of the issue by the manufacturer of a declaration of conformity.

Article 5

1. Any amendments required to adapt to technical progress the provisions of the specific Directives, which provisions will be expressly indicated in each of those Directives, shall be adopted in accordance with the procedure in Article 7.

2. Any question relating to the inspection certificates referred to in the second indent of Article 4 (1) and issued under the conditions in Article 9 may also be examined under this procedure.

Article 6

1. A committee on the adaptation to technical progress of the Directives on the removal of technical barriers to trade in electrical equipment for use in potentially explosive atmospheres, hereinafter called 'the committee', is hereby set up; it shall be composed of representatives of the Member States under the chairmanship of a representative of the Commission.

2. The committee shall establish its own rules of procedure.

Article 7

1. If recourse is had to the procedure defined in this Article, the matter shall be placed before the committee by its chairman, on his own initiative or at the request of the representative of a Member State.

2. The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a period which may be fixed by the chairman according to the urgency of the matter. At least 41 votes in favour shall be required before it can deliver its opinion, the votes of the Member States being weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote.

3. (a) The Commission shall adopt the proposed measures if they are in accordance with the opinion of the committee.

(b) Where the proposed measures are not in accordance with the opinion of the committee or if no opinion is delivered, the Commission shall without delay propose to the Council the measures to be adopted. The Council shall act by a qualified majority.

(c) If the Council has not acted within three months of the date on which the proposal was submitted, the Commission shall adopt the proposed measures.