



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.05.1998

COM(1998) 286 final

97/0011 (SYN)

**Amended Proposal**

**for a**

**COUNCIL DIRECTIVE**

**ON TRANSPORTABLE PRESSURE EQUIPMENT**

(presented by the Commission pursuant to Article 189 a (2)  
of the EC-Treaty)



## EXPLANATORY MEMORANDUM

- A. On 8 January 1997 the Commission submitted to the Council a proposal for a Directive on transportable pressure equipment (COM(96) 674 final - SYN 97/0011<sup>1</sup>).

On 10 July 1997<sup>2</sup> the Economic and Social Committee gave a favourable opinion.

On 19 February 1998<sup>3</sup> the European Parliament gave an opinion on the proposal at the first reading.

The Commission accepts amendments 4, 6, 7, 10, 11, 12 and 19, for the following reasons :

- amendment 4 because the proposed text is more accurate ;
- amendments 6, 10 and 19 because the proposed dates are more realistic ;
- amendment 7 because the extension of the scope to non-refillable, is consistent with the objectives of the proposal ;
- amendment 11 because the conformity of new equipments is also made by type "A" inspection bodies ;
- amendment 12 because the possibility of doing periodic testing in different Member States is consistent with the proposal.

The Commission accepts amendment 20 but only concerning the date.

The Commission accepts amendments 9, 15 and 23 (the deletion of type "C" inspection bodies) if point 4 of Annex III is deleted (the definition of type "B" inspection bodies is extended).

The Commission could not accept the other amendments proposed by the Parliament for the following reasons:

- Amendment 1 is rejected since this whereas clause is limited to the main objective of the proposal, i.e. transport safety;
- Amendments 2 and 3 are rejected, since, although they are primarily editorial changes, the Commission considers the proposed text more accurate;

---

<sup>1</sup> O.J. No. C95 of 24.03.1997, p. 2

<sup>2</sup> O.J. No. C296 of 26.09.1997, p. 6.

<sup>3</sup> O.J. No.

- Amendment 14 is rejected, since the limitation only to existing type B inspection bodies is too restrictive and would prevent new type B inspection bodies entering the market;

Amendments 16 and 20 are rejected since the Commission considers that frequency of controls upon bodies and the detailed penalty arrangements rightly fall under the competence of the Member States;

- Amendment 22 is also rejected since this modification, which does not allow an undertaking to do the maintenance and the periodic testing of an equipment is too restrictive.

B. The Commission therefore modifies its proposal as follows:

Amendment No. 4: adds “sufficiently” to the word independent.

Amendments No. 6, 10, 19 and 20: delay the date

Amendment No. 7: extends the scope to non-refillable

Amendments No. 9, 15, 23 and 9 bis: delete type C' inspection bodies and extend the definition of type B inspection bodies

Amendment No. 11: limits the reassessment of existing extension to type A inspection bodies

Amendment No. 12: provides the possibility of doing the periodic testing in the different Member States.

**Amended Proposal**

**for a**

**COUNCIL DIRECTIVE**

**on transportable pressure equipment**

The Commission proposal in document COM(96) 674 final - SYN 97/0011 is amended as follows:

Text initially proposed by the Commission	Amended text
(Amendment 4)	
Recital 11	
Whereas Member States have to designate inspection bodies entitled to perform the conformity assessment procedures and periodic inspections and they also have to ensure that such bodies are independent, efficient and professionally capable to carry out their appointed tasks;	Whereas member States have to designate inspection bodies entitled to perform the conformity assessment procedures and periodic inspections and they also have to ensure that such bodies are <u>sufficiently</u> independent, efficient and professionally capable to carry out their appointed tasks;

Text initially proposed by the Commission	Amended text
(Amendment 6)	
Article 1(3)	
3. Transportable pressure equipment placed on the market before <u>1 January</u> 1999 which does not meet the requirements of Council Directives 94/55/EC and 96/49/EC does not fall within the scope of this Directive.	3. Transportable pressure equipment placed on the market before <u>1 July</u> 1999 which does not meet the requirements of Council Directives 94/55/EC and 96/49/EC does not fall within the scope of this Directive.

Text initially proposed by the Commission	Amended text
(Amendment 7)	
Article 2, 1st indent	
<p>– ‘transportable pressure equipment’ shall mean <u>refillable</u> equipment, including valves and other accessories of Class 2 of the Annexes to Council Directives 94/55/EC and 96/49/EC, approved for the transport of gases of Class 2, as well as for the transport of stabilised hydrogen cyanide of Class 6.1 and hydrogen fluoride, anhydrous and hydrofluoric acid solution of Class 8; it shall include receptacles, demountable tanks, tank containers (portable tanks), and tanks of tank wagons, tanks or receptacles of battery vehicles and tanks of tank vehicles as defined in marginal 2211 and 10 014, 211 and Appendices X and XI, paragraph 1.1.3 respectively of the Annexes to those directives;</p>	<p>– ‘transportable pressure equipment’ shall mean equipment, including valves and other accessories of Class 2 of the Annexes to Council Directives 94/55/EC and 96/49/EC, approved for the transport of gases of Class 2, as well as for the transport of stabilised hydrogen cyanide of Class 6.1 and hydrogen fluoride, anhydrous and hydrofluoric acid solution of Class 8; it shall include receptacles, demountable tanks, tank containers (portable tanks), and tanks of tank wagons, tanks or receptacles of battery vehicles and tanks of tank vehicles as defined in marginals 2211 and 10 014, 211 and Appendices X and XI, paragraph 1.1.3 respectively of the Annexes to those directives;</p>

Text initially proposed by the Commission	Amended text
(Amendment 9)	
Article 2, 6th indent	
<p><u>type C inspection body’ shall mean a body designated by the national competent authority of a Member State in conformity with Article 7 and meeting the criteria of Annexes I and IV.</u></p>	<p><del>Deleted</del></p>

Text initially proposed by the Commission	Amended text
(Amendment 10)	
Article 3(1)	
<p>1. New transportable pressure equipment, with the exception of gas cylinders bearing an E mark in accordance with Council Directives 84/525/EEC, 84/526/EEC and 84/527/EEC, placed on the market or put into service <u>on or after 1 January</u> 1999 shall meet the provisions applicable to equipment of Class 2 of the Annexes to Council Directive 94/55/EC and 96/46/EC. Compliance of such transportable pressure equipment with these provisions shall be proven exclusively in accordance with the conformity assessment procedures set out in Annex V, part I and specified in Annex VI.</p>	<p>1. New transportable pressure equipment, with the exception of gas cylinders bearing an E mark in accordance with Council Directives 84/525/EEC, 84/526/EEC and 84/527/EEC, placed on the market or put into service <u>from 1 July</u> 1999 shall meet the provisions applicable to equipment of Class 2 of the Annexes to Council Directive 94/55/EC and 96/49/EC. Compliance of such transportable pressure equipment with these provisions shall be proven exclusively in accordance with the conformity assessment procedures set out in Annex V, part I and specified in Annex VI.</p>

Text initially proposed by the Commission	Amended text
(Amendment 11)	
Article 4(1)	
<p>1. For transportable pressure equipment mentioned in Article 1(2)(b) compliance of such equipment with the provisions of the Annexes to Council Directives 94/55/EC and 96/49/EC shall be proven exclusively in accordance with the procedures for periodic inspection in Annex V, part II.</p>	<p>1. For transportable pressure equipment mentioned in Article 1(2)(b) compliance of such equipment with the provisions of the Annexes to Council Directives 94/55/EC and 96/49/EC shall be proven exclusively in accordance with the procedures for periodic inspection in Annex V, part II, <u>provided that the reassessment of existing transportable pressure equipment as defined in Article 1(2)(b), third indent, of this Directive is undertaken by a type A inspection body.</u></p>

Text initially proposed by the Commission	Amended text
(Amendment 12)	
Article 4(2a) (new)	
	<p><u>2a. Member States may not prohibit the submission for periodic testing of the pressure equipment referred to in Article 1(2)(b) irrespective of the Member State of first approval.</u></p>

Text initially proposed by the Commission	Amended text
(Amendment 15)*	
Article 7	
<p style="text-align: center;"><u>Article 7</u></p> <p><u>1. Member States shall likewise inform the Commission and the other Member States of the type C inspection bodies which they have appointed, in accordance with the criteria of paragraph 2, to carry out periodic inspections of transportable pressure equipment defined in Article 2, to ensure continued compliance with the relevant provisions of Council Directives 94/55/EC and 96/49/EC in accordance with the procedures laid down in Annex V, part II, modules 1 or 2, including the specific tasks which these bodies carry out on behalf of the competent authority and the identification numbers assigned to them beforehand by the Commission.</u></p> <p><u>The Commission shall publish in the Official Journal of the European Communities a list of the designated type C inspection bodies, with their identification numbers and the tasks for which they have been designated. The Commission shall ensure that this list is kept up to date.</u></p>	<p><u>Deleted.</u></p>



<p>2. <u>Member States shall apply the criteria set out in Annexes I and IV for the designation of type C inspection bodies. Each inspection body shall submit to the Member State which intends to designate it complete information concerning, and evidence of, compliance with the criteria in Annexes I and IV.</u></p> <p>3. <u>A Member State which has designated an inspection body of type C shall withdraw such a designation if it finds that the body no longer meets the criteria referred to in paragraph 2 above. It shall immediately inform the Commission and the other Member States of such withdrawal of a designation.</u></p>	
<p><i>* This amendment entails deletion of all references to Article 7 and to type C inspection bodies throughout the text of the proposal and its annexes.</i></p>	

Text initially proposed by the Commission	Amended text
(Amendment 19)	
Article 13(1)	
<p>1. The Member States shall adopt and publish the laws, regulations and administrative provisions necessary for them to comply with this Directive before <u>30 June 1998</u>. They shall forthwith inform the Commission thereof.</p> <p>When the Member States adopt those measures they shall include references to this Directive or shall accompany them with such references on their official publication. The Member States shall lay down the manner in which such references shall be made</p> <p>Member States shall apply these provisions from <u>1 January 1999</u>.</p>	<p>1. The Member States shall adopt and publish the laws, regulations and administrative provisions necessary for them to comply with this Directive before <u>1 January 1999</u>. They shall forthwith inform the Commission thereof.</p> <p>When the Member States adopt those measures they shall include references to this Directive or shall accompany them with such references on their official publication. The Member States shall lay down the manner in which such references shall be made.</p> <p>Member States shall apply these provisions from <u>1 July 1999</u>.</p>

Text initially proposed by the Commission	Amended text
(Amendment 20)	
Article 13(3)	
<p>3. Member States shall lay down the system of penalties for breaching the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that those penalties are applied. The penalties thus provided for shall be effective, proportionate and dissuasive. Member States shall notify the relevant provisions to the Commission not later than <u>30 June 1998</u> and shall notify any subsequent changes as soon as possible.</p>	<p>3. Member States shall lay down the system of penalties for breaching the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that those penalties are applied. The penalties thus provided for shall be effective, proportionate and dissuasive. Member States shall notify the relevant provisions to the Commission not later than <u>1 January 1999</u> and shall notify any subsequent changes as soon as possible.</p>

Text initially proposed by the Commission	Amended text
(Amendment 9bis) *	
Annex III(4)	
<p><u>4. Inspection services shall only be supplied to the organisation of which the inspection body forms a part and the clients to whom they supply gas.</u></p>	<p><u>Deleted</u></p>

\* This amendment is a consequence of amendments 9, 15 and 23.

Text initially proposed by the Commission	Amended text
(Amendment 23)*	
Annex IV	
<p><u>Annex IV</u></p> <p><u>Criteria supplementary to Annex I to be met by designated inspection bodies of type C referred to in Article 7</u></p> <p><u>There shall be a clear separation of the responsibilities of the inspection personnel from those of the personnel employed in the other functions, which shall be established by organisational identification and the reporting methods of the inspection body within the parent organisation.</u></p>	<p><u>Deleted</u></p>
<p>* <i>Annexes V, VI and VII are renumbered IV, V and VI respectively and all references thereto are changed accordingly</i></p>	

ISSN 0254-1475

COM(98) 286 final

# DOCUMENTS

EN

07 10 08

Catalogue number : CB-CO-98-294-EN-C

ISBN 92-78-35583-6

---

Office for Official Publications of the European Communities

L-2985 Luxembourg

211