

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.06.1996
COM(96) 260 final

96/0153 (ACC)

Proposal for a

COUNCIL DECISION

Concerning the conclusion of an Agreement in the form of an exchange of letters in the area of certification of industrial products under the framework of the Europe Agreement between the European Community and its member states of the one part, and the Republic of Poland of the other part

(presented by the Commission)

Explanatory Memorandum

The Polish certification system that came into force in May 1995 contained certain provisions that were of concern to the Community in regards to exports of industrial products originating from the Community. The concern was justified by the fact that the Polish certification system required a long list of industrial products to be subject to an obligatory certification procedure in Poland thus creating difficulties to trade.

The Association Committee of the Europe Agreement has therefore found it essential to regulate the matter bilaterally by forming a Working Group on certification aiming at solving these problems. Gradual progress was made in the early meetings of this Working Group and the list of products that was subject to the obligatory certification procedure in Poland was reduced.

At a meeting of the Commission with the Polish Authorities held in Warsaw on 20- 22 February 1996, a global approach to certification was established by both sides addressing the different issues of certification such as access of Community products to the Polish market, approximation of Polish legislation in relation to EC Directives, mutual recognition agreements and technical assistance. This approach has for its purpose to regulate the issue of certification in its entirety rather than treating each product on its own merits. This solution has been considered as acceptable by the member states within the Council Central European Group.

The Commission initialed the texts of this approach on 21 February 1996.

It accordingly invites the Council to adopt the annexed proposal for a Council decision aiming at formalising this approach through an exchange of letters.

Proposal for a Council Decision

Concerning the conclusion of an Agreement in the form of an exchange of letters in the area of certification of industrial products under the framework of the Europe Agreement between the European Community and its member states of the one part, and the Republic of Poland of the other part,

THE COUNCIL OF THE EUROPEAN UNION,

having regard to the Treaty establishing the European Community and in particular Article 113, in conjunction with Article 228, paragraph 2, thereof,

having regard to the proposal of the Commission,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an exchange of letters between the European Community and the Republic of Poland on a global approach to certification of industrial products as described in the documents entitled " Annex to the minutes from the EU Commission- Poland meeting in Brussels 21- 22 November 1995" and the " Declaration on the interpretation of Modalities", under the framework of the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part is hereby approved on behalf of the European Community.

The texts of this Agreement on certification are attached to this Decision.

Article 2

The president of the Council is hereby authorised to designate the person empowered to sign the Agreement in order to bind the Community.

Done at Brussels,

For the Council

The President

LETTER FROM THE COUNCIL OF THE EUROPEAN UNION

Sir,

The European Community and the Republic of Poland have agreed under the framework of the Europe Agreement, on the global approach to certification of industrial products as described in the attached documents entitled " Annex to the minutes from the EU Commission- Poland meeting in Brussels 21-22 November" and the "Declaration on the Interpretation of Modalities" which were initialed on 21 February 1996.

This Agreement in the form on an exchange of letters shall be approved by the Contracting Parties in accordance with their respective procedures. It will enter into force when Poland notifies completion of the necessary domestic procedure. In the meantime the Agreement shall apply on a provisional basis from 21 February 1996.

I should be grateful if you would kindly confirm the acceptance of your Government of the foregoing.

Please accept, Sir, the assurance of my highest consideration.

**For the Council
of the European Union**

LETTER FROM THE GOVERNMENT OF THE REPUBLIC OF POLAND

Sir,

I have the honour to receive your letter ofwhich reads as follows:

"Sir,

The European Community and the Republic of Poland have agreed under the framework of the Europe Agreement, on the global approach to certification of industrial products as described in the attached documents entitled " Annex to the minutes from the EU Commission- Poland meeting in Brussels 21-22 November" and the "Declaration on the Interpretation of Modalities" which were initialed on 21 February 1996.

This Agreement in the form on an exchange of letters shall be approved by the Contracting Parties in accordance with their respective procedures. It will enter into force when Poland notifies completion of the necessary domestic procedure. In the meantime the Agreement shall apply on a provisional basis from 21 February 1996.

I should be grateful if you would kindly confirm the acceptance of your Government of the foregoing.

Please accept, Sir, the assurance of my highest consideration."

I have the honour to confirm that my Government is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration.

For the Government of the Republic of Poland

**Annex to the minutes from the EU Commission - Poland meeting
in Brussels 21-22.11.1995**

1. In the framework of the Europe Agreement and, in particular, of its article 68, 69, 70 and 74, the declared objective of Poland is ultimately to apply the European Union standards and certification system.
2. To this end, the cooperation between Poland and the EU will help Poland adopting the European Union's norms and certification methods in its own legal and regulatory corpus.
3. To achieve this, the Commission and Poland will act on a mutually agreed plan and time schedule along the following lines.
4. The Commission will provide Poland as soon as possible with:
 - a) the necessary information and communication systems;
 - b) technical advice, training as required and consulting;
 - c) the Commission will study the possibility and will supply technical support to upgrade the capacity and capability of the Polish laboratories and certification bodies.

It is understood that technical and financial assistance will be provided by the Phare programme, under the Polish operational programme, within the limits of available resources.

5. Following a proper assessment of the technical competences of the Polish certification institutions, consideration will be given to mutual recognition agreements. Both parties declare their willingness to achieve the first positive results for such agreements in 1996, provided that the Polish conformity assessment institutions designated by the Polish authorities will fulfil the requirements established by the EU harmonised technical regulations.
6. Poland declares its intention to introduce in its legislation the relevant Community directives according to the conditions to be defined.
7. Recognising the importance that Poland and the EU attach to the consumer's protection, it is agreed that:
 - a) products legally marketed or certified originating in the Union will not be subject to any certification procedure in Poland; to this end Polish party will perform all necessary changes in Polish legal regulations, within three months in relation to the competence of the Council for Testing and Certification, which then will be effected through a new law to be submitted by the government to the Parliament by the end of 1997 which will replace the existing law on testing and certification.

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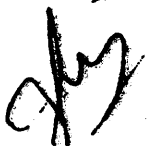
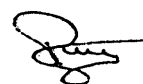
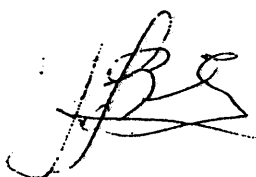
b) in accordance with the provisions established in the above points, for those products subject to compulsory third party certification in the EU, the EU authorities will accept certificates issued by the Polish conformity assessment bodies designated by the Polish authorities, under the mutual recognition agreements to be signed between Poland and the EU, when the Polish conformity assessment bodies are deemed to be competent.

c) nevertheless, complaints from citizens, public entities or enterprises on the safety and quality of marketed or certified products originating in the EU exported to Poland will be received by the Polish authorities, and may be notified to the European Commission providing all relevant information. In such cases, the parties shall immediately enter into consultations in order to find mutually acceptable solutions.

8. Both parties will meet on a semestrial basis in order to review the progress made in the implementation of the above provisions.

9. The Polish party undertakes to put into place the appropriate legal provisions for the continuation of the non-application of sanctions.

10. Both parties agree to formalise the present document through an exchange of letters.



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DECLARATION ON THE INTERPRETATION MODALITIES.

For the purpose of the implementation of point 7a, the manufacturer or the importer will provide either a third party certificate or a declaration of conformity required according to European Community law, only once for a given product. The products will be admitted in the Polish market as soon as possible and, at the latest, two weeks after the presentation of these above documents. The cost of this procedure is understood to be limited to normal administrative costs. A product admitted to be marketed on this basis in Poland will not be subject again to any such verification.

In conformity with the relevant Community and Member States legislation, the civil or criminal liability of manufacturer can be searched before the national courts.

ISSN 0254-1475

COM(96) 260 final

DOCUMENTS

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Catalogue number : CB-CO-96-270-EN-C

ISBN 92-78-05257-4

Office for Official Publications of the European Communities

L-2985 Luxembourg