

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 656 final.

Brussels, 22 December 1977

Proposal for a  
COUNCIL DIRECTIVE (EEC)

on the approximation of the laws of the Member States relating  
to common provisions for machine-tools and similar machines  
for the working of metals, wood, paper and other materials

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Proposal for a  
COUNCIL DIRECTIVE (EEC)

on the approximation of the laws of the Member States relating  
to hand-held, power-driven, portable grinding machines

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(submitted to the Council by the Commission)

COM(77) 656 final.



EXPLANATORY MEMORANDUM

I . GENERAL

1. A comparative examination of the laws, regulations and administrative provisions in force in the Member States in the sector of machine-tools shows important differences, not only between the technical requirements concerning the manufacture, examination and testing of these machines, but also between the administrative procedures to be followed in order to place them on the market.
2. This situation compels manufacturers of machine-tools and similar machines hereinafter called "machines", to adapt their production and their stocks of spares to the varying technical requirements laid down by the laws of the Member States for which these machines are intended.
3. What is more, in cases where administrative procedures for the placing of these machines on the market exist in one or more Member State, manufacturers are obliged to comply with the approval procedures in force in those Member States even though methods of examination and testing very often differ.
4. National laws are, however, justified in that Member States are responsible for protecting users of these machines - in particular workers - and third parties. Consequently, the approximation of these laws appears to be the most suitable means of eliminating the harmful effects resulting from the differences noted; the various categories of machine will subsequently be covered to the extent necessary by separate Directives fitting into the framework already defined.

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5. The machine-tool sector is included in the third stage of the "General Programme for the removal of technical barriers to trade which result from disparities between the national laws". This programme was approved by the Council on 28 May 1969. In its Resolution on industrial policy of 17th December 1973, the Council requested the Commission to forward to it by 1 January 1976 a proposal for a directive on the sector covered by this Directive with a view to its adoption before 1 January 1977. The technical complexity of the first separate Directive and the establishment of the relevant European standard, obliged the Commission to delay forwarding its proposal so that it could complete its work.
6. The purpose of this Directive is therefore to remove the existing technical barriers to trade by an approximation of the laws. The legal basis is Article 100 of the Treaty.
7. The Commission has set up a Working Party composed of national experts from trade associations and of representatives of European standards and inspection bodies to provide it with advice on technical matters. It has also made the necessary contacts with consumer representatives.

## II . HARMONIZATION METHOD

The harmonization method proposed in the Directive is the "optional" method. However, this does not mean that some of the separate Directives cannot be based on the complete harmonization method, involving replacement of the national provisions in force by Community provisions. This should only be done, however, if particularly important safety problems arise and insofar as the definition of a minimum safety level is essential.

### III. COMMENTS ON THE PROPOSAL FOR A DIRECTIVE

The proposal for a Directive on machine-tools and similar machines with which the proposal for a separate Directive on portable grinding machines is associated is the outcome of consultations at several meetings of the Commission's Working Party; most of the experts agree with it in principle.

Although Commission staff have been unable to iron out certain differences of opinion that emerged during discussions, the Commission has endeavoured to put forward a Community solution meeting with the assent of most of the experts consulted and in a form as close as possible to that of the other outline Directives already forwarded to the Council.

The outline Directive is divided into several Chapters and contains general provisions relating to the machines, such as the principle of the free movement of these machines and their components if they comply with Community requirements, the adjustment of the Directives to technical progress and a safeguard clause.

It also lays down a number of Community procedures which the machines and their components can undergo if so stipulated by the separate Directives.

This Directive draws a clear distinction between :

- a) "EEC type-approval, the act whereby a Member State records, after testing, that a type of machine and/or component conforms to the requirements of this Directive and the relevant separate Directive.
- b) "EEC-verification, means inspection and confirmation, and in accordance with the procedures which will be laid down in the separate Directives, that a machine and/or component conforms to the approved pattern and/or to the requirements of the relevant separate Directive;

- c) "EEC type-examination", the procedure whereby the body approved for that purpose by a Member State establishes, after testing, and certifies, on its own responsibility that a type of machine or component satisfies the requirements of this Directive and the relevant separate Directive;
- d) "EEC inspection", the procedure whereby, in the context of the EEC type-examination, the approved body establishes the conformity of the machines and/or components with the type which it certifies as satisfying the requirements of this Directive and the relevant separate Directive;
- e) "EEC independent certification, the procedure whereby the manufacturer or importer domiciled in the Community certifies, on his own responsibility, that each machine and/or component satisfies the requirements of this Directive and the relevant separate Directive.

The Annexes show the Community symbols for EEC type-approval and EEC type-examination that have to be affixed by the manufacturer to each machine or component in conformity with the relevant directives.

Machines or their components that have been granted EEC type-approval or an EEC type-examination certificate and bear the required symbol can be placed on the market, installed and used without restriction.

In the case of approved components incorporated in a machine or installation, it is understood that acceptance checks carried out by the relevant national departments - on the spot, before entry into service - should essentially be limited to a visual check of the approval symbols; without need for the component to undergo further examination or testing. This does not, however, prejudice the right of these departments to carry out tests and inspections by spot checks at the place of use.

The Directive also specifies that it is up to the competent authorities in the Member States to grant an applicant EEC type-approval or an EEC type-examination certificate. This does not, however, in any way restrict the practices adopted by the Member States of instructing duly authorized bodies of their choice to carry out the examinations and tests prior to a decision to grant type-approval.

To ensure that Member States are kept informed of the component authorities and inspection bodies responsible for the examinations, tests and inspections each Member State must forward to the other States and to the Commission a list of the authorities and bodies competent to engage in those activities on its territory. It must also give notification of any subsequent amendments made.

The Commission, with the support of most of the experts, deemed it advisable, following the practice adopted for other outline directives, to establish minimum criteria that the Member States must take into consideration if necessary when appointing the approved bodies authorized to carry out EEC type-examination and EEC-inspection.

This list can obviously give only a limited number of basic criteria and does not limit the rights of the authorities and administrations in Member States to select and supervise such inspection bodies in accordance with existing national structures, especially as regards accurate and faithful implementation of the provisions resulting from Community Directives.

To ensure that the Annexes to this outline Directive and to the separate Directives on machine tools can be adapted flexibly and rapidly to technical progress, it is proposed to adopt the Committee procedure for amendments. As regards the technical Annexes to the separate Directives, the Commission in no way rules out the possibility of making appropriate use of existing international or European standards when drafting its proposals.

#### IV. COMMENTS ON THE PROPOSAL FOR A SEPARATE DIRECTIVE ON HAND-HELD, POWER-DRIVEN, PORTABLE GRINDING MACHINES .

Portable grinding machines were selected as the first sector for application of the outline Directive because they are very widely used both in industry and by private individuals and because the existence of obstacles to their free movement had been noted.

Since 1965, the European Committee for Standardization (CEN) has been endeavouring to draw up a draft European standard for pneumatic grinding machines but, since all the members of the Working Party were not unanimous, a draft was placed before the Commission at the end of 1973. After the scope had been extended to all grinding machines, this draft obtained the agreement in principle of the government experts, and it was decided to adopt it as the technical Annex to the separate Directive. However, should the CEN succeed in drawing up a standard before the separate Directive is presented, the Technical Annex would be replaced by a strict reference to the CEN standard concerned.

The European standard was completed in August 1977 and is therefore available for the Commission to refer to it as laid down in this separate Directive.

As regards the choice of a harmonization method and of the Community procedure for placing portable grinding machines on the market, the Commission considered it advisable to follow the opinion of the majority of the experts consulted and to propose optional harmonization and EEC independent certification.

#### V. CONSULTATION OF THE EUROPEAN PARLIAMENT AND THE ECONOMIC AND SOCIAL COMMITTEE.

Pursuant to the second paragraph of Article 100 of the Treaty, the opinions of these two bodies are required because the implementation of the provisions in the two Directives will, in all Member States, involve the amendment of legislation.



PROPOSAL FOR A COUNCIL DIRECTIVE

on the approximation of the laws of the Member States relating to common provisions for machine-tools and similar machines for the working of metals, wood, paper and other materials.

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,

Having regard to the Opinion of the Economic and Social Committee,

Whereas in each Member State mandatory provisions determine the technical design, inspection and/or operating characteristics of machine-tools and similar machines and of the components of these machines; whereas these requirements differ from one Member State to another; whereas these differences hinder trade and may create unequal conditions of competition within the European Economic Community;

Whereas these hindrances to the establishment and functioning of the Common Market can be reduced or removed if the same requirements apply in each of the Member States, either in parallel or in place of their existing laws;

Whereas compliance with these technical requirements must be checked in order to provide effective protection for users and third parties; whereas existing inspection procedures differ from one Member State to another; whereas in order to achieve free movement of these machines within the Common Market and obviate multiple inspection procedures which hinder free movement of these machines, it is necessary to provide for mutual recognition of inspection operations among Member States;

Whereas in order to facilitate this mutual recognition of inspection operations it is necessary, in particular, to establish appropriate administration procedures before these machines are placed on the market, namely : EEC type-approval, EEC type-examination, EEC verification, EEC inspection and EEC independent 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 machine or component, of EEC symbols or marks showing the checks which it has undergone is evidence that it satisfies the relevant technical requirements and therefore when the machine is imported it is unnecessary to repeat the checks that have already been carried out ;

Whereas national regulations on machine-tools and similar machines cover numerous categories of machines with very different uses, capacities and safety systems; whereas this Directive should lay down the general provisions dealing, in particular, with the EEC type-approval, EEC type-examination, EEC verification, EEC inspection, and EEC independent certification procedures; whereas separate Directives for each category of machine will lay down the technical requirements as to design, inspection procedures for these machines and their components, and where appropriate, the conditions under which the Community technical requirements are to replace existing national provisions;

Whereas technical progress requires prompt adaptation of the requirements specified in the Directives on machine-tools and similar machines; whereas to facilitate the implementation of the measures necessary to this end it is desirable to ensure 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 the Machine-Tool Sector;

Whereas machines placed on the market, although complying with the requirements of the relevant separate Directive, might nevertheless constitute a safety hazard; whereas it is desirable to institute an appropriate procedure to mitigate such danger;

HAS ADOPTED THIS DIRECTIVE :

CHAPTER I  
Definitions and scope

Article 1

1. This Directive applies to machine-tools and machines for the working of metals, wood, paper and other materials listed in the CCT Nomenclature <sup>(1)</sup> under headings N<sup>o</sup>. 84.45 B and C, 84.47, 84.49 and 85.05 and hereinafter called "machines" and to components thereof.
2. For the purposes of this Directive, a component means any component, part of a machine, device or tool which is fitted to the machines referred to in paragraph 1, and is defined in the relevant separate Directives.
3. This Directive does not cover machines specially designed for use with radioactive materials, in particular those under headings N<sup>o</sup>. 84.45 A of the CCT Nomenclature.

Article 2

1. For the purposes of this Directive :

"EEC type-approval" means the act whereby a Member State records, after testing, that a type of machine and/or component conforms to the requirements of this Directive and the relevant separate Directive.

"EEC-verification" means inspection and confirmation, in accordance with the procedure which will be laid down in the separate Directives, that a machine and/or component conforms to the approved pattern and/or to requirements of the relevant separate Directive.

(1) OJ N<sup>o</sup>. L 295, 01.11.1974.

"EEC type-examination" means the procedure whereby the body approved for that purpose by a Member State establishes after testing and certifies, on its own responsibility, that a type of machine or component satisfies the requirements of this Directive and of the relevant special Directive.

"EEC inspection" means the procedure whereby, under the EEC type-examination procedure, the approved body establishes the conformity of the machine and/or components with the type which it certifies as satisfying the requirements of the Directive and the relevant special Directive.

"EEC independent certification" means the procedure whereby a manufacturer or importer officially resident in the Community certifies, on his own responsibility, that each machine and/or component satisfies the requirements of this Directive and the relevant special Directive.

2. The special Directives shall lay down the design and assembly requirements and inspection, testing and, where necessary, operating procedures for the categories of machine and/or components to which they relate.

They shall specify which of the procedures as referred to in this Directive are to apply to a particular category of machine and/or component.

The special 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, use or placing in service for an approved purpose of machines and /or components which do not meet the requirements of the relevant Directive.

3. For the purposes of this Directive, an "EEC machine and/or EEC component" means any machine and/or component so designed and manufactured as to satisfy the requirements of the relevant special Directive, and bearing the EEC mark referred to in Articles 6 and 14.

Article 3

1. No Member State may, on grounds relating to the design, construction, or inspection of a machine or component within the meaning of this Directive and of the relevant special Directive, refuse, prohibit or restrict the placing on the market, use of placing in service for the purpose for which it was intended of an EEC machine and/or of an EEC component.
  
2. The provisions of paragraph 1 shall not preclude provision, in a special Directive, for inspection by the Member State concerned of an EEC machine and/or component when it is being installed or put into service.

Article 4

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

CHAPTER II

EEC type-approval

Article 5

1. Where it is provided for in a special Directive, EEC type-approval shall be a precondition to the placing on the market of an EEC-machine and/or EEC component.
2. Member States shall, at the request of a manufacturer or his authorized agent established in the Community, grant EEC type-approval to any type of machine and/or component which satisfies the requirements of the relevant special Directive.
3. For a given type of machine and/or component, an application for EEC type-approval may be submitted in only one Member State.
4. The Member States shall grant or refuse EEC type-approval in accordance with the provisions of this Chapter and of Annex I.

Article 6

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

The EEC type-approval certificate shall be drawn up in accordance with the model in Annex III.

EEC type-approval shall entitle the applicant to affix the EEC mark, on his own responsibility, to each machine and/or component which conforms to the approved type and - if this is provided for by the relevant special Directive - to issue a certificate of conformity for each machine and/or component.

The requirements relating to the EEC mark are set out in Annex I. The certificate of conformity shall be drawn up in accordance with the model in Annex IV.

2. The special Directives may lay down that EEC type-approval shall be subject to certain conditions or limited in time.
3. A special Directive may lay down that the applicant shall inform the Member State of the date on which mass production of an EEC machine and/or component commences.

Article 7

1. If a Member State which has granted EEC type-approval finds that a machine and/or component for which approval has been granted fails to conform to the type, it shall withdraw or suspend the approval.

The approval may, however, be maintained where the State considers that the differences established are minimal, or have no fundamental effect on the design of the machine and/or component and in no way represent a hazard to safety or to the environment ; 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 special Directive have not been observed, the Member State shall request that the appropriate changes be made.

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

2. The Member State which granted EEC type-approval shall also withdraw it if it finds that the approval should not have been granted or that the conditions referred to in Article 6 (3) have not been fulfilled.
3. 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 and 2, it shall, after consulting that State, act in accordance with the provisions of those paragraphs.
4. Where the advisability or necessity of withdrawing or suspending approval is the subject of dispute between the Member State which has granted EEC 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.
5. Only that Member State which granted EEC type-approval may decide to withdraw or suspend 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 machine or component which does not conform to the approved type.

CHAPTER III

EEC verification and EEC independent certification

Article 8

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

CHAPTER IV

Provisions common to the EEC type-approval and EEC verification procedures

Article 9

Each Member State shall forward to the other Member States and the Commission :

- the list of the bodies responsible for carrying out the examinations and tests within the framework of EEC type-approval and/or EEC verification procedure ;
- any subsequent amendments to these lists.

Article 10

1. Member States may not appoint an approved body and entrust it with the tasks specified in this Directive and in the special Directives unless such body meets the criteria set out in Annex II.
2. A Member State which has appointed an approved body shall withdraw the appointment if it finds that it does not meet or has ceased to meet the criteria referred to in paragraph 1. It shall immediately inform the Commission and the other Member States thereof and shall indicate whether the appointment has been withdrawn completely or only in respect of certain inspections.



Article 11

1. Any decision pursuant to this Directive and to the special Directives to refuse, withdraw or suspend EEC type-approval or to prohibit the sale or use of an EEC machine and/or EEC component shall state the exact grounds on which it is based.
  
2. Member States shall take the necessary steps to ensure that the applicant or the person to whom EEC type-approval was issued is able to appeal against decisions by the competent authority to refuse, withdraw or suspend EEC type-approval.

CHAPTER V

EEC type-examination and EEC type-examination certificate

Article 12

1. EEC type-examination is the procedure for establishing that a type of machine or component satisfies the relevant Community requirements ; it shall be a preliminary to the placing of EEC type equipment on the market.
2. EEC type-examination shall be carried out by bodies approved for this purpose by the Member State.

Article 13

1. Approved bodies appointed by Member States to carry out EEC type-examination in accordance with the provisions of Article 14 shall comply with the minimum criteria laid down in Annex II.
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 these bodies concerned. It shall also notify the other Member States and the Commission of any subsequent amendments to these particulars.

Article 14

1. The EEC type-examination certificate is the document by which an approved body certifies that a type of machine or component conforms to the requirements of this Directive and to those of the relevant special Directives.

At the request of the manufacturer or his authorized agent established in the Community, the approved bodies referred to in Article 13 shall carry out the EEC type-examination of a type of machine or component. If the type of machine or component meets the requirements of this Directive and of the relevant special Directives and if the manufacturer undertakes to comply with the conditions referred to in Article 20 and in the special Directives, the approved body shall issue an EEC type-examination certificate. This EEC type-examination certificate shall conform to the model in Annex III.

2. The approved bodies shall issue, refuse to issue, suspend or withdraw EEC type-examination certificates in accordance with the provisions of this Chapter. The provisions relating to the EEC mark are set out in Annex I. The certificate of conformity shall be made out in accordance with Annex IV.
3. For a given type of machine or component, an application for EEC type-examination may be submitted to only one of the approved bodies.
4. The EEC type-examination certificate shall be subject to the conditions laid down in Article 20 and may also be subject to time limits or to other conditions stipulated in the special Directives.

#### Article 15

1. If an approved body finds that samples of machines or components 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 special Directive relating to the machine 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 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 14 and Article 20.

#### Article 16

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 performing the tasks referred to in Articles 14 and 15, such Member State 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 this fact to the attention of the Commission. The Commission shall take appropriate steps to find a solution.

#### Article 17

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 may annul all certificates issued by that body before withdrawal of approval if they were issued improperly.

#### Article 18

1. If one of the cases referred to in Article 15 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 latter Member State shall oblige the approved body to take the steps set out in Article 15.
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 VI

EEC Inspection

Article 19

EEC inspection, the aim of which is to ensure the correct use of the EEC mark under the EEC type-examination procedure, shall be carried out by the approved body which issued the EEC type-examination certificate.

Each approved body may delegate the task of carrying out testing and inspection to one or more laboratories.

Article 20

1. The manufacturer or his authorized agent established in the Community who makes use of the EEC mark shall :
  - a) inform the approved body which granted the EEC type-examination certificate of :
    - the places where the machines or components are manufactured and/or, in the case of those imported from non-member countries, of the place where they are warehoused ;
    - the date of commencement of production;
  - b) allow representatives of the approved bodies access for the purpose of inspection to the said places of manufacture or warehousing and, if necessary, to the manufacturing records, and provide all necessary information relevant to such inspection;
  - c) should the separate Directive provide for this, permit samples to be taken for inspection purposes from the places of manufacture or warehousing and, if necessary, at one or more stages of marketing.
2. The approved body which issued the EEC type-examination certificate shall supply the test reports and, if need be, the technical file to the other approved bodies, to the Member States and to the Commission if they so request.
3. The authorized holder of the EEC mark shall arrange for quality control and have at his disposal the equipment necessary to enable him to keep a permanent and adequate check on the conformity of the manufactured machines and/or components with the type examined.

Article 21

1. Each approved body shall be responsible for arranging EEC inspection as it sees fit, in order to ensure that manufactured machines and/or components conform to the type for which the EEC type-examination certificate was granted.

This inspection shall enable the approved body first of all to establish whether the manufacturer has the inspection facilities referred to in Article 20(3) and, secondly, to ensure that the manufacturer is carrying out a check on the conformity of the manufactured machines and/or components with the type for which the EEC type-examination certificate was granted (e.g. whether he is keeping manufacturing records, if this is required).

The approved body shall also arrange for samples to be taken without warning at the places of manufacture and at all stages of marketing. In the case of machines and/or components imported from non-member countries, the checks may be carried out at the warehouses indicated.

2. If the place of manufacture, warehousing or marketing is situated in a Member State other than that of the approved body which granted the EEC type-examination certificate, that body shall collaborate with the approved body in the Member State where the sampling is to take place to have the aforementioned inspection carried out.

The same shall apply with regard to places of warehousing in the case of machines or components imported from non-member countries.

Article 22

1. If it is evident from the inspection referred to in Article 20 that the machines and/or components do not conform to the type which was granted the EEC type-examination certificate, or that all the requirements of this Directive and the relevant special Directive have not been fulfilled, the approved body shall take one of the following measures with regard to the authorized holder of the EEC mark :
  - a) a simple warning notice to ensure that the infringements noted are corrected within a given period of time;

- b) a warning as referred to in a) but accompanied by more frequent checks;
- c) temporary suspension of the EEC type-examination certificate;
- d) withdrawal of the EEC type-examination certificate.

2. The first two measures shall be taken where the differences do not affect the general design of the machine and/or component, or the infringements are minimal and in no way represent a safety hazard.

One of the last two measures shall be taken where the differences or infringements noted are substantial and in all cases where they represent a safety hazard.

3. The approved body which granted the EEC type-examination certificate shall also withdraw or suspend the certificate :

- when the manufacturer or his authorized agent prevents the inspection referred to in Article 20 from being carried out,
- when it is found that the EEC type-examination certificate should not have been granted.

4. Furthermore, if the approved body which granted the EEC type-examination certificate is informed by the approved body of another Member State of the existence of one of the cases referred to in paragraphs 1 and 3 of this Article, it shall, after consulting that body, act in accordance with the provisions of the said paragraphs.

5. Temporary suspension or withdrawal of the EEC certificate shall be notified without delay to the other approved bodies.

CHAPTER VII

Adaptation of the Directives to technical progress

Article 23

1. Any amendments necessary to the Annexes to adjust this Directive to technical progress shall be adopted in accordance with the procedure laid down in Article 25.
2. The special Directives relating to machines as defined in Article 2 (2) shall specify which of the provisions of their technical annexes may be adjusted by the same procedure.

Article 24

1. A Committee on the Adaptation to Technical Progress of the Directives on the Removal of Technical Barriers to Trade in the Machine-Tool Sector, hereinafter called "the Committee" is hereby set up. It shall consist of representatives of the Member States with a representative of the Commission as Chairman.
2. The Committee shall adopt its own rules of procedure.

Article 25

1. Where the procedure laid down in this Article is to be followed, matters shall be referred to the Committee by the Chairman, either on his own initiative or at the request of the representative of a Member State.
2. The representative of the Commission shall submit to the Committee a draft of the measures to be adopted. The Committee shall deliver its Opinion on the draft within the time limit set by the Chairman, having regard to the urgency of the matter. Opinions shall be adopted by a majority of forty-one votes, the votes of 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 when 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 adopted, the Commission shall without delay propose to the Council the measures to be adopted. The Council shall act by a qualified majority.  
c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission



CHAPTER VIII

Derogating Clause

Article 26

The design of a machine and/or component and the methods used in its manufacture need not comply with all of the provisions of the separate Directives, without the machine and/or component ceasing to be covered by Article 4 of this Directive, provided that the alterations made are such as to ensure an equivalent degree of safety.

Each of the separate Directives may expressly state the provisions from which there can be no such derogation.

The following procedure shall be observed in such cases :

- a) the Member State, either directly in the case of the EEC type-approval or at the request of the approved body it has appointed in the case of the EEC type-examination procedure, shall forward to the Commission the documents giving the description of the machine and/or component and the documents supporting its request for derogation, including, in particular, the results of any tests carried out.

The Commission shall send a copy to the other Member States which shall then have a period of two months from that date to agree or disagree with the Member State concerned or to ask that the matter be referred to the Committee as laid down in Article 24. A copy of each document shall be sent to the Commission. All the correspondence shall be confidential.

- b) If no Member State has disagreed or asked that the matter be referred to the Committee, before the end of the period laid down under a) the Commission shall authorize the Member State to grant or approve the derogation requested and shall inform the other Member States thereof.
- c) If a Member State has not replied by the end of the period laid down, it shall be deemed to have agreed.
- d) If a Member State does not agree or asks that the matter be referred to the Committee as laid down in Article 24, the Commission shall convene the Committee as soon as possible to consider the matter in question.

*convene*

If the Committee by the majority laid down in Article 25(2) is of the opinion that the conditions laid down in this Directive permitting derogations are fulfilled, if necessary specifying any additional conditions, the Commission shall authorise the Member State to grant or approve the derogation, subject to any additional conditions laid down, and shall inform the other Member States thereof.

In the event of an unfavourable opinion or where no opinion is given the Commission shall refuse authorization to the Member State to grant or approve the derogation.

- e) The correspondence referred to under a) shall be submitted in the language or languages of the country of destination, or in another language acceptable to it.

CHAPTER IX

Safeguard Clause

Article 27

1. Where a Member State has good grounds for believing that a machine and/or component represents a safety hazard, although satisfying the requirements of this Directive and the special Directives, it may temporarily prohibit or restrict on its territory the placing on the market, use and placing in service of the machine and/or component for the use for which it was intended. It shall immediately inform the Commission and the other Member States thereof, giving the reasons for its decision.
2. The Commission shall consult the Member States concerned within six weeks, then give its view without delay and take the appropriate steps.
3. If the Commission considers that technical amendments to the Directive are necessary, such amendments shall be adopted, either by the Commission or by the Council, in accordance with the procedure laid down in Article 25 of this Directive. In this event, the Member State which has taken the safeguard measures may retain them until such amendments come into force.

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CHAPTER X

Final provisions

Article 28

All special Directives adopted within the framework of this Directive shall be allotted a serial number.

Article 29

The Member States shall take all necessary measures to ensure that the machines and components required to undergo EEC type-approval, EEC verification or EEC type-examination do not bear any sign, mark or inscription liable to be confused with the EEC mark.

Article 30

1. Member States shall bring into force the laws, regulations and administrative provisions needed in order to comply with the Directive within eighteen months of its notification and shall forthwith inform the Commission thereof.
2. Once this Directive has been notified, the Member States shall also ensure that the Commission is informed, in sufficient time for it to submit its comments, of any draft laws, regulations or administrative provisions which they propose to adopt in the field covered by this Directive.

Article 31

This Directive is addressed to the Member States.

ANNEX I

EEC type-approval and EEC type-examination

1. Application for EEC type-approval or EEC type-examination

- 1.1 The application and the correspondence relating to it shall be drawn up in the official language (or one of the official languages) of the State to which the application is made. This State, or the approved body which it has appointed, has the right to require that the annexed documents should also be drawn up in that same official language.
- 1.2 The application shall contain the following information :
  - name and address of the manufacturer or firm, or his or its authorized agent or of the applicant;
  - category of the machine and/or component;
  - intended use and any prohibited uses;
  - trade name, if any, or type.
- 1.3 The application shall be accompanied by two copies of the documents required and, in particular :
  - 1.3.1 The technical file required by the separate Directives;  
indicating the places where the EEC mark specified in this Directive is to be affixed , as well as the other marks specified in the separate Directives ;
  - 1.3.2 A statement certifying that no other application for EEC type-approval or EEC type-examination has been submitted for the same type of machine and/or component ;
  - 1.3.3 Where appropriate, documents relating to all types of national approval already granted and to the components used which have been granted EEC type-approval or have undergone EEC type-examination or EEC verification.

2. Processing of the application

- 2.1 The application shall be examined on the basis of the plans and where appropriate, of sample machines and/or components. This examination shall cover all the examinations and tests specified in the relevant separate Directives.
- 2.2 The separate Directives for the various categories of machines and/or components shall determine, if necessary, the rules for construction and calculation and the coefficients to be used for calculation, and shall specify the nature and quality of the material that may be used in the manufacture of such machines or components.

3. EEC certificates and mark

The EEC type-approval certificate or EEC type-examination certificate shall contain the conclusions of the type-examination and shall indicate any conditions to which its grant may be subject. It shall be accompanied by the descriptions and drawings necessary to identify the type and, where appropriate, to explain how it functions. The EEC mark provided for in Article 6 and 14 of this Directive shall be a stylized letter **E** in a hexagon containing:

- in the upper part, the serial number of the separate Directive allocated according to the chronological order of adoption, and the capital letters identifying the State where the certificate was issued (B for Belgium, D for the Federal Republic of Germany, DK for Denmark, F for France, I for Italy, IRL for Ireland, L for Luxembourg, NL for the Netherlands, UK for the United Kingdom) and the two final figures of the year of issue of the certificate; the number of the separate Directive to which the certificate refers will be allocated when the separate Directive is adopted within the framework of this Directive.
- in the lower part, the certificate number.

An example of this mark is shown in 6.1.

4. Modification of the product marketed

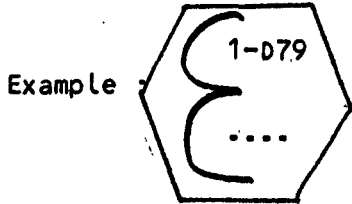
The Member State or approved body which has granted a certificate shall be informed by the manufacturer or his authorized agent established in the Community of all significant modifications, particularly those involving changes in the trade description of a product.

5. Publication of certificates

- 5.1 An extract from the certificates shall be published in the Official Journal of the European Communities.
- 5.2 At the same time as the party concerned is notified, copies of the certificate shall be sent by the Member State in which it was issued to the Commission and to the other Member States, which may also obtain copies of the definitive technical file on the machine and of the reports on the examinations and tests it has undergone.
- 5.3 Withdrawal of an EEC certificate shall be published in accordance with the procedure laid down in 5.1 and 5.2
- 5.4 Any Member State refusing a certificate shall, either directly in the case of EEC type-approval or at the request of the approved body in the case of EEC type-examination, inform the other Member States and the Commission of such refusal.

6. EEC Mark

6.1 EEC mark (see item 3)



Certificate granted by the Federal Republic of Germany, or by an approved body appointed by it, in 1979, pursuant to the first separate Directive

Certificate No

6.2 The separate Directives may specify the location and dimensions of the EEC marks.

Unless otherwise indicated in the separate Directives, the letters and numbers in each mark shall be at least 5 mm high.

6.3 This mark shall be visibly, legibly and indelibly affixed to each EEC-machine and each EEC-component.

## ANNEX II

### Minimum criteria to be taken into account by Member States when appointing approved bodies responsible for carrying out EEC type-examination

1. The approved bodies responsible for examining machine-tools and similar machines with a view to the issue of EEC type-examination certificates shall have at their disposal the staff and facilities necessary for the proper performance of the technical and administrative tasks connected with the issue of certificates and shall have access to the equipment required for any special examinations provided for in the separate Directives.
2. The approved body, its director and its staff may not be the manufacturer, supplier or installer of the machines or the authorized representative of any of those parties. They may not become involved either directly, or as authorized representatives, in the design, construction, marketing or maintenance of such machines or in representational activities relating to them. This does not preclude the possibility of exchanges of technical information between the manufacturer and the approved body.
3. The staff responsible for examining machines with a view to the issue of EEC type-examination certificates shall carry out these tasks with the highest degree of professional integrity and technical competence and shall be free from all pressures and inducements, particularly financial, which might influence their judgment or the results of their work, especially from persons or groups of persons with an interest in the results of examinations.
4. The staff responsible for carrying out examinations shall have :
  - sound technical and professional training;
  - satisfactory knowledge of the requirements relating to the examinations they carry out and adequate practical experience of such work;
  - the necessary ability to prepare the records and reports incorporating the results of the work carried out.
5. The impartiality of examining staff shall be guaranteed. Their remuneration shall not depend on the number of examinations carried out or on the results obtained.
6. The approved body shall take out a third-party insurance policy unless such liability is assumed by the State in accordance with national law.
7. The staff of the approved body shall be bound by professional secrecy regarding everything they learn in the exercise of their duties (save with regard to the competent administrative authorities of the States which appointed them) under this and the separate Directives or under any provision of national law giving effect to them.



ANNEX III

EEC type-approval or EEC type-examination  
certificate (1) for a machine-tool and/or a  
component of such a machine (1)

Name of the competent administration or the approved body (1).....

Notification concerning the granting, refusal, withdrawal or suspension of  
type-approval (type-examination) in respect of the requirement (1) .....

.....

.....

.....

(Type-examination N<sup>o</sup>.)

Type-approval N<sup>o</sup>.....

1. Category, make and type or trade name .....
2. Manufacturer's name and address .....
3. If applicable, name and address of manufacturer's authorized agent .....
4. Submitted for type-approval (type-examination) (1) .....
- on .....
5. In respect of the following requirement: .....
6. Test laboratory .....
7. Date and number of laboratory report .....
8. Date of granting/refusal/withdrawal/suspension of type-approval  
(type-examination) .....
- .....
9. The following documents, bearing the type-approval number shown above, are  
annexed to this certificate .....
10. Any additional information .....
- .....
- .....

Done at ....., on .....

.....  
(signature)

(1) Delete as applicable

PROPOSAL FOR A COUNCIL DIRECTIVE (EEC)

on the approximation of the laws of the Member States relating to hand-held, power-driven, portable grinding machines

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,

Having regard to the Opinion of the Economic and Social Committee,

Whereas in the Member States the design, construction and inspection of portable grinding machines are subject to provisions that differ from one Member State to another, particularly with regard to safety, and consequently hinder trade in these machine-tools ; whereas it is, therefore, necessary to approximate these provisions ;

Whereas the European standardization organizations have adopted a standard for the mechanical safety of power-driven, portable grinding machines ; whereas it is therefore advisable to refer to this European standard ;

Whereas the Council Directive of \_\_\_\_\_ on the approximation of Laws of the Member States relating to common provisions for machine-tools and similar machines for the working of metals, wood, paper and other materials has, in particular, laid down a series of common procedures for placing these machines on the market ; whereas in the case of portable grinding machines an EEC independent certification procedure should be provided for ;

Whereas technical progress requires rapid adaptation of the technical requirements ; whereas the procedure laid down in Article 25 of the Council Directive of \_\_\_\_\_ on the approximation of the laws of the Member States relating to common provisions for machine-tools and similar machines for the working of metals, wood, paper and other materials should therefore be adopted for amendments and adaptations to this Directive.

ANNEX IV

EEC Certificate of Conformity

I, the undersigned .....  
 (surname and first name) (1)  
 hereby certify that the machine tool or component  
 1. Category .....  
 2. Make .....  
 3. Type .....  
 4. Type serial number of machine .....  
 5. Type serial number of frame if different from that of the machine  
 .....  
 6. Year of manufacture .....  
 Conforms to  
 - the type(s) approved (EEC type-approval) (1)  
 - the type(s) examined (EEC type-examination)(1)

As shown in the table below

SEPARATE DIRECTIVES	IN THE CASE OF TYPE-APPROVAL(1)			IN THE CASE OF TYPE-EXAMINATION (1)		
	No	Date	Member State	No	Date	Approved body

Done at ..... on .....

.....  
(signature)

.....  
(position)

(1) Delete as applicable

Whereas the technical provisions of the standard EN 68 of October 1977, to which reference is made, shall not preclude Community or national measures concerning other safety aspects of the machines such as electrical safety (see Council Directive No. 73/23/EEC of 19 February 1973 relating to electrical equipment designed for use between certain voltage limits)(1), dust, noise, vibrations and radio interference (see Council Directive No. 76/889/EEC of 4 November 1976 relating to radio interference caused by electrical household appliances, portable tools and similar equipment)(2).

HAS ADOPTED THIS DIRECTIVE :

(1) OJ N<sup>o</sup>. L 77, 26.03.1973

(2) OJ N<sup>o</sup>. L336, 04.12.1976.

### Article 1

1. This Directive applies to hand-held, power-driven, portable grinding machines.
2. This Directive does not cover :  
grinding machines for use with abrasive wheels :
  - a) which are driven with a peripheral speed of less than 18 m/s or greater than 85 m/s ;
  - b) the outer diameter of which is not greater than 50 mm ;
    - straight grinding machines for use with a grinding wheel the outer diameter of which is greater than 200 mm.

### Article 2

1. The grinding machines referred to in Article 1 (1) of this Directive may benefit from EEC independent certification procedure in accordance with Article 2 of the Council Directive of                      on the approximation of the laws of the Member States relating to common provisions for machine-tools and similar machines for the working of metals, wood, paper and other materials.
2. In order to benefit from this EEC independent certification procedure the grinding machines shall comply with the provisions of standard EN 68 of October 1977, their conformity being certified by the manufacturer by means of the certificate of conformity set out in Annex I of this Directive and by the affixing of the Conformity mark in accordance with the conditions set out in Annex II.

### Article 3

No Member State may, on grounds relating to the requirements laid down in this Directive, refuse, prohibit or restrict the placing on the market and the entry into service of the grinding machines referred to in Article 1 (1) where these are accompanied by a certificate of conformity and bear the conformity mark as referred to in Article 2, certifying that they conform to the requirements of this Directive.

Article 4

Member States shall take all measures necessary to ensure that manufacturers or importers issue a certificate of conformity only when the grinding machines referred to in Article 1 (1) satisfy the requirements of this Directive.

Article 5

In accordance with Article 28 of Directive 77/ /EEC, this Directive is allotted the Number 1.

Article 6

Amendments necessary to adapt Article 2 of this Directive to technical progress shall be adopted in accordance with the procedure laid down in Article 25 of Directive 77/ /EEC.

Article 7

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within eighteen months of its notification and shall forthwith inform the Commission thereof.
2. Once this Directive has been notified, the Member States shall also ensure that the Commission is informed, in sufficient time for it to submit its comments, of any draft laws, regulations or administrative provisions which they propose to adopt in the field covered by this Directive.

Article 8

This Directive is addressed to the Member States.

ANNEX I

Manufacturer's certificate of conformity in respect of  
hand-held, power-driven, portable grinding machines

I, the undersigned .....  
(surname and first name)

hereby certify that the grinding machine specified hereunder conforms to the requirements of the Council Directive of

n° ..... / EEC

1. Description : .....
2. Manufacturer/importer : .....  
(name and address)
3. Type/type number : .....
4. Production number if necessary : .....
5. Year of manufacture : .....
6. Any additional information : .....

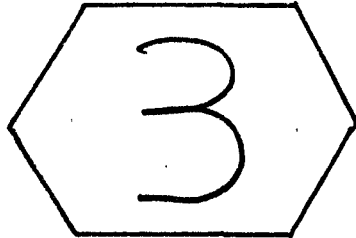
Date : .....

.....  
(signature)

.....  
(position)

ANNEX II

Conformity mark



1. The conformity mark shall be clearly visible and indelible. It shall be affixed directly beside or on the descriptive plate.
2. The dimensions of the mark shall be related to the size of the machine and shall be so selected that the information on the mark is clearly legible and visible.

The actual diameters of the circles described about the marks shall be at least 6.3 mm and 12.5 mm.

3. The upper half of the conformity mark shall contain the Number 1 it being the designated Number of this Directive.