

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 660 final.

Brussels, 12 December 1977

Proposal for a
COUNCIL DIRECTIVE
on the approximation of the laws of the Member States concerning
the general requirements of construction and certain types
of protection for electrical equipment for use
in potentially explosive atmospheres

(submitted to the Council by the Commission)

COM(77) 660 final.

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EXPLANATORY MEMORANDUM

Council Directive 76/117/EEC of 18 December 1975 on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres stipulates that the Member States must comply with the provisions contained therein within 18 months of notification of the first specific Directive in this field.

Although Directive 76/117/EEC introduces a certain number of rules of procedure aimed at removing technical barriers to trade in electrical equipment for use in potentially explosive atmospheres, it cannot be brought into force by the Member States directly and irrespective of any implementing directives, since it is based on the principle of reference to harmonized standards. However, Article 4 of the Directive defines as harmonized standards "standards to which reference will subsequently be made in specific Council Directives."

In order to enable Directive 76/117/EEC to be implemented, therefore, the Commission has presented the proposal for a Directive annexed hereto, the main aim of which is to recommend that the Council recognize seven harmonized standards.

It should be pointed out that, when Directive 76/117/EEC was adopted, the Commission had undertaken to introduce the first implementing Directive within 18 months, i.e., before 18 June 1977.

The several months' delay of the Services of the Commission in drawing up this proposal is due principally to the fact that it was necessary to wait for the CENELEC (European Electrotechnical Standardization Committee) to complete the tasks assigned to it by the Commission concerning the harmonization of standards in this field. The latest findings on the seven standards envisaged under this proposal are fairly recent, but it was of a certain importance that they all be presented together. On the one hand, this is because they cover the most widely used equipment in the area falling within the scope of Directive 76/117/EEC. On the other hand, it was important that these standards be submitted jointly for approval by the Council, in order to balance the economic advantages of free movement vis-à-vis the most widespread of the various existing types of protection, and it was the research which this involved which resulted in a certain amount of delay in finalizing matters.

It should be added, moreover, that CENELEC is continuing its efforts to achieve harmonization and is working on other standards in this area. Obviously, if this work is completed before the Council has acted on the proposal annexed hereto, the Commission will adopt a very flexible attitude and, if necessary, will amend its proposal so as to incorporate as swiftly as possible the results of the harmonization measures implemented under Community legislation. It should be remembered that the Services of the Commission are preparing another draft directive with the help of the Mines and Other Extractive Industries Safety and Health Commission.

The fact is that "equipment designed for work underground in mines susceptible to fire damp" is excluded from the scope of Directive 76/117/EEC and specifications relating to this equipment are the subject of studies being carried out by the Safety and Health Commission.

The provisions provided for by this Directive complete those of Directive 76/117/CEE to which it constantly refers. The reference to harmonized standards is its main object. However, it also spells out procedural details which had not been specified in Directive 76/117/EEC. These details relate to the obligations of the body which delivers a certificate of conformity or of control concerning both the notification of the certificate and the provisions with which the body must comply should the certificate come to be revoked.

As for the mark, it was fixed in agreement with the work of harmonization undertaken at Commission level and within the framework of CENELEC. Indeed, the mark **E** is a symbol which has been very widely used in directives whose object is to eliminate technical barriers to trade; the Commission does try to reduce as much as possible the number of symbols used for the free circulation of goods. The existence of the sign II is due to the fact that a distinction must be made between equipment which is to be used in the mines (which are to be the object of another proposal for a directive, as has been mentioned above) and the equipment which is covered by this directive. The equipment which will be usable in the mines will carry the sign I, a fact which is in line with the work undertaken by the bodies which have drawn up the harmonized standards.

With this proposal, then, the Commission is continuing its efforts to achieve harmonization along the lines indicated by the Council in its previous Directives on electrical equipment. In addition, the Commission demonstrates the fact that it has taken account of the safety requirements which it is essential for users of the type of equipment covered by this Directive to comply with.

Lastly, it should be mentioned that for several Member States the implementation of the provisions of this Directive necessitates amendments to their legislation and that consequently Article 100 of the EEC Treaty, which forms the basis of this proposal and all other proposals aimed at removing technical barriers to trade, requires that the European Parliament and the Economic and Social Committee be consulted.

PROPOSAL FOR A COUNCIL DIRECTIVE ON THE APPROXIMATION OF THE LAWS OF THE MEMBER STATES CONCERNING THE GENERAL REQUIREMENTS OF CONSTRUCTION AND CERTAIN TYPES OF PROTECTION FOR ELECTRICAL EQUIPMENT FOR USE IN POTENTIALLY EXPLOSIVE ATMOSPHERES

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 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 these laws should therefore be harmonized;

Whereas Council Directive 76/117/EEC of 18 December 1975 on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres¹ has set out the inspection procedures which this equipment must satisfy in order to be imported, put on the market and used freely after undergoing the tests and being provided with the marks and signs prescribed;

Whereas Article 4(4) of the said Directive provides that specific Directives shall specify the harmonized standards applicable in all the Member States in respect of this equipment;

Whereas Article 5 of the said Directive provides that the specific Directives shall expressly indicate the provisions which may be adapted to technical progress;

¹OJ No L 24, 30.1.1976, p.45

Whereas the second paragraph of Article 8(1) and Article 9(5) of the said Directive provide that copies of the certificates of conformity and inspection certificates shall be forwarded to the Member States only; whereas, in order to ensure the free movement of this equipment, the Commission should be able to publish excerpts from these certificates in the Official Journal of the European Communities; whereas it is therefore necessary that the Commission should also receive such copies;

Whereas Articles 8(2) and 9(6) of the said Directive provide for a procedure for withdrawing the certificate; whereas the Member States, the Commission and the party concerned should be informed of such withdrawal and the reasons therefor,

HAS ADOPTED THIS DIRECTIVE

Article 1

1) This Directive shall apply to electrical equipment capable of use in a potentially explosive atmosphere which employs one or more of the following types of protection :

- . oil immersion "o",
- . pressurized apparatus "p",
- . powder filling "q",
- . flameproof enclosure "d",
- . increased safety "e",
- . intrinsic safety "i".

2) This Directive shall not apply to electrical equipment designed for work underground in mines susceptible to fire damp or to electrical medical equipment.

Article 2

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 which complies with the provisions of this Directive and of Directive 76/117/EEC (hereafter referred to as 'the framework Directive').

Article 3

For the purposes of this Directive, harmonized standards as within the meaning of Article 4(4) of the framework Directive, shall mean the standards listed in Annex I hereto.

Article 4

1. For the purposes of this Directive, the distinctive Community mark referred to in Articles 4(1) and 10 of the framework Directive shall be the one whereof the model is reproduced in Annex II hereto; this mark shall be affixed to each item of equipment in such a way as to be visible, legible and indelible.
2. Member States shall take all necessary measures to prohibit the use on equipment covered by this Directive of markings or inscriptions which might be confused with the mark, the model whereof reproduced in Annex II.

Article 5

In accordance with Article 5(1) of the framework Directive, Annexes I and II hereto may be amended in accordance with the procedure in Article 7 of the framework Directive.

Article 6

1. At the time of the notification to the applicant, a copy of the certificate of conformity or inspection certificate shall be forwarded to the Commission, which shall also be entitled on request to a copy of the definitive technical specifications of the equipment and to the inspection records of the tests or inspections which the equipment has undergone.
2. The Commission shall ensure that the relevant excerpts from these certificates be published in the Official Journal of the European Communities.

Article 7

If, for the reasons put forward in Articles 8(2) and 9(6) of the framework Directive, the body which has issued the certificate of conformity or inspection certificate withdraws the certificate, it shall forward the withdrawal notice to the other Member States and to the Commission. The grounds for such withdrawal shall be specified.

Furthermore, such withdrawal shall be notified at the same time to the party concerned, with an indication of the remedies available to him under the laws in force in the Member States and of the time limits for the exercise of such remedies.

Article 8

1. Member States shall bring into force the provisions necessary to comply with this Directive within eighteen months of its notification and shall forthwith inform the Commission thereof.
2. Once notification of this Directive has been effected, the Member States shall, in sufficient time to enable it to submit its comments, inform the Commission of all draft laws, regulations or administrative provisions which they intend to adopt in the field covered by this Directive.

Article 9

This Directive is addressed to the Member States.

The harmonized standards to which a type of equipment must conform, depending on the system of protection, are the European standards referred to in Table I below.

TABLE I : European standards

Number		Edition	Date
50014	Electrical equipment for use in potentially explosive atmospheres: general rules	1	
50015	Electrical equipment for use in potentially explosive atmospheres: oil immersion "o"	1	
50016	Electrical equipment for use in potentially explosive atmospheres: pressurized apparatus "p"	1	
50017	Electrical equipment for use in potentially explosive atmospheres: powder filling "q"	1	
50018	Electrical equipment for use in potentially explosive atmospheres: flameproof enclosure "d"	1	
50019	Electrical equipment for use in potentially explosive atmospheres: increased safety "e"	1	
50020	Electrical equipment for use in potentially explosive atmospheres: intrinsic safety "i"	1	

These European standards are published
by CENELEC, 2, Rue de Bréderode, P.O. Box 5, 1000 Brussels.

ANNEX II

Model of the distinctive Community mark

