

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 14.03.1994

94/0077 (SYN)

Proposal for a

COUNCIL DIRECTIVE

**amending Directive 89/655/EEC on the
minimum safety and health requirements for the use of
work equipment by workers at work**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. LEGAL BASE

The proposal is based on Article 118a of the EC Treaty and comprises an amendment of Directive 89/655/EEC¹ on the minimum health and safety requirements applicable for the use of work equipment at work (second individual directive within the meaning of Article 16 of Directive 89/391/EEC²).

¹ OJ No L 393 of 30.12.1989, page 13

² OJ No L 183 of 29.6.1989, page 1

2. BACKGROUND

2.1. Justification for the present proposal

Council Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work lays down general minimum requirements to work equipment. It does not lay down minimum additional requirements applicable to specific work equipment but Article 9(1) provides that such supplementary minimum requirements shall be adopted by the Council in accordance with the procedure laid down in Article 118A of the Treaty.

Furthermore, Council Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile construction sites³ provides that certain minimum requirements concerning on-site outdoor workstations (points 6, 7, 8 and 9 of Annex IV, part B, section 2) will be specified in the future Directive amending Directive 89/655/EEC.

This proposal, therefore, meets the requirements for further action provided for in Council Directives 89/391/EEC and 92/57/EEC.

³ OJ No L 245 of 26.8.1992, page 6

2.2. Reasons for Community action

The area dealt with here merits special attention due to the dangers inherent in certain types of work equipment. Indeed, as information received from the Member States shows, a large proportion of accidents at work is linked with the use of work equipment and especially the aspects covered by this proposal. It is thus vital that sufficient precautions be taken to avoid loss of life and injuries at work.

These precautions can be classified as follows :

- First of all, the inadequate level of safety of some specific work equipment in use must be improved by making adjustments or alterations. This objective is pursued by adding additional minimum requirements to the existing Annex in Directive 89/655/EEC.
- Then, steps must also be taken to change employers and workers practices relating to the use of work equipment. To this end, general rules for use have been drawn up and more specific rules for special cases.
- Finally, a system is needed for in-service inspection of work equipment, as this will enable any deterioration or situations which could result in serious accidents to be detected in good time.

In the Member States the legal provisions on the protection of workers against the risks associated with work equipment vary. Some of them are rudimentary and some go into detail and some are more stringent than in this proposal. This proposal, which is based on Article 118A of the EC Treaty, is intended to establish in all the Member States the minimum levels of protection deemed necessary. It aims to stipulate what objectives are to be attained and contains general principles covering all work equipment (in respect of rules for use and in-service inspection) and some specific work equipment in use (in respect of adjustments and alterations) with a view to setting out general guidelines which will prevent specific and detailed Community provisions having to be adopted on a case-by-case basis.

2.3. Subsidiarity

Only Community action can guarantee in all the Member States a minimum level of protection of workers against the risks associated with the use of work equipment, leaving the Member States free to adopt any additional measures which are compatible with the Treaty.

The proposal will encourage greater flexibility in employment within the Community, as workers will be sure to find at least the minimum level of protection for their health and safety in all the Member States. The employers can also rest assured that production costs will not be subject to unacceptable distortions due to excessive differences in the levels of protection of health and safety at work.

Furthermore enterprises operating in other Member States than the one in which they are established will also benefit from convergence of the rules on protection of health and safety of workers, especially when they take their own work equipment to another country or when they procure equipment in another Member State either by hiring it or by purchasing it second-hand.

2.4. Proportionality

The Community provisions on safety and health at work must satisfy the demands for minimum health and safety requirements without imposing an intolerable burden on enterprises. In particular any constraints must be avoided which would be an obstacle to the creation and development of small and medium-sized enterprises. The proposal fulfils these conditions.

This is an individual proposal within the meaning of Directive 89/391/EEC on the implementation of measures aimed at improving the health and safety of workers at work. As the proposal is intended to amend Directive 89/655/EEC, its main aim is to specify more precisely the requirements of these two directives in the field of work equipment. It thus does not constitute a set of new and isolated measures and, indeed, the more specific provisions are intended to facilitate the practical application of these directives. The obligations placed on employers by this proposal constitute an extension of the risk assessment provided for by Article 6, paragraph 3 of Directive 89/391/EEC. The measures to be taken are thus in proportion to the risks involved in using work equipment.

The proposal sets out the objectives to be achieved rather than detailed regulatory requirements. The employer is allowed sufficient flexibility in deciding what is the best way of achieving these objectives. Nevertheless in order not to unduly disrupt any national practices which have proved effective, there is no objection to a Member State maintaining or introducing more stringent measures of protection as provided for by Article 118a of the EC Treaty. Although that might restrict the choices open to the enterprises concerned, it will not necessary result in additional costs.

3. AIMS OF THE PROPOSAL

The aims of the proposal are as follows:

- progressive improvement in the protection of safety and health of workers when using work equipment
- harmonisation - as provided for in Article 118a of the Treaty - of the minimum health and safety requirements to be observed when using work equipment, in particular with respect to periodic inspection.

In formal terms, the proposal is intended as a response to the Council's invitation to supplement Directive 89/655/EEC.

4. THE PROPOSAL IN RELATION TO EXISTING NATIONAL RULES

Tables 1 to 4 below indicate the current situation as regards legislation in the Member States in relation to the proposal for a Directive. It is immediately obvious that the national situations vary widely. In some Member States almost all the measures currently in force are more stringent than those in the proposal (e.g. in the Netherlands). In others, national legislation corresponds with only parts of the proposal (e.g. in the UK). However, it should be noted that Table 2 cannot take account of the choices made by the Member States when they decide upon the

procedures for authorising alternative protection and/or organisation of work measures (addition of paragraph 4 to Article 4 of Directive 89/655/EEC).

As a result of the widely diverging inspection periods (see Table 4), the Commission has decided not to set up minimum intervals for repeating these inspections.

Table 4 is based on a minimum interval for each type of equipment. It does not take account of the option taken by the Commission but illustrates clearly the intractable problems a different approach could involve.

Table 1: Annex I: Minimum requirements for specific work equipment

	B	DK	D	GR	ES	F	IRL	IT	L	NL	PT	UK
3.1	+0	=0/=R	+0	=0	-0/R	-0	0 R	-0	X 0	+0/R	-0	-0
3.2	X	0 *	+0	=0	=0	X 0	-0	-0	X 0	=0/R	-0	-0
3.3	+0	-0	+0	=0	=0	+0	-0	=0	-0	+0/R	-0	-0
3.4	+0	+0	+0	-0	-0	+0	-0	=0	-R	+0	-0	-0
3.5	X 0	X 0		-0	-R	X 0	-0	=R	X 0	+0	X 0	-0
3.6	+0	?	+0	-0	=0	+0	X 0	=R	X 0	+0	X 0	-0

Legend:

- X No conformity
- Partial conformity
- = More or less equivalent
- + National provisions exceeding the draft directive
- 0 * Situations vary in respect of various subitems

Nature of national provisions:

- 0 = Binding
- R = Recommendatory
- F = Voluntary

Table 2: Annex II: Minimum requirements concerning the use of work equipment

	B	DK	D	GR	ES	F	IRL	IT	L	NL	PT	UK
1	-0	0 *	-0	=0	=0	-0/R	X 0	=0	=0	+0	-0	-0
2	X 0	=0/+0	-0	=0	-0	-0/R	X 0	=0	=0	=0	-0	-0
3	+0	-0	-0	=0	-0	+0	X 0	=0	-0	+0	-0	-0
4	+0	=0	-0	-0	-0 R	-0/R	X 0	=0	X 0	=0	-0	-0

Table 3: Annex III: Minimum requirements concerning protection against *the hazards caused by rollover and falling objects*

	B	DK	D	GR	ES	F	IRL	IT	L	NL	PT	UK
Rollover	X 0		=0	-0	=0	-0	-0	-0	X 0	=0	-0	-0

Legend:

- X No conformity
- Partial conformity
- = More or less equivalent
- + National provisions exceeding the draft directive
- 0 * Situations vary in respect of various subitems

Nature of national provisions:

- 0 = Binding
- R = Recommendatory
- F = Voluntary

Table 4: Article 4b/Annex IV, Annex V: Periodic inspection

	B	DK	D	GR	ES	F	IRL	IT	L	NL	PT	UK
Principles	=0	/	/	/	-	-0	=0	/	=0	=0	=0	-0
1)a	-0	/	=0	-0	-0	=0	=0	-0	X 0	X 0	=R	-0
1)c	+0	=0/ +FR	+0	-/=0	-0	0 *	0 *	+/=0	+0	=0/R	=0	=R
1)d	+0	+R	=0	=0	-0	-0	X 0	=0	X 0	X 0	X 0	-0
1)e	-0	X 0	=0	=0	-0	-0	X 0	X	=0	=0	=0	-0
1)f	+0	+0	=0	=0	=0 X 0	-0	-0	-0	=0	=0 +0	=0	-0
2)		X 0	-0	0	-0	=0	-0	=0	=0	=0	/	-0
Skills required	-0		+0	=0	-	=0	=0	=0	=0	=0	/	=0

Legend:

- X No conformity
- Partial conformity
- = More or less equivalent
- + National provisions exceeding the draft directive
- 0 * Situations vary in respect of various subitems

Nature of national provisions:

- 0 = Binding
- R = Recommendatory
- F = Voluntary

5. CONSULTATION OF PARTIES CONCERNED

The Commission has consulted, and involved in the preparation of the proposal, experts and representatives of governments and workers' and employers' organisations.

The Advisory Committee for Safety, Hygiene and Health Protection at Work and the Safety and Health Commission for the Mining and Other Extractive Industries instituted by Council Decisions 74/325/EEC and 74/326/EEC of 27.6.1974 respectively were consulted and gave opinions which were taken into account.

A study of the social and economic impact of the proposal was made with the help of a group of national experts. On the basis of this study an assessment sheet for the social and economic impact was prepared (see Annex A).

Moreover, throughout the process of preparing the proposal the Commission asked professional organisations and institutions of the Member States for their comments and duly took these into account as well.

6. DESCRIPTION OF THE PROPOSAL

The proposal is for a Council Directive amending Directive 89/655/EEC and consists of a preamble, three articles and five annexes.

6.1. Article 1

Article 1 is made up of six paragraphs and amends Articles 4, 8, 9 and the Annex of Directive 89/655/EEC. A new Article 4b is added as are four annexes. Note that Article 4 of Directive 89/655/EEC refers to the relevant Community directives applicable (e.g. the machinery Directive and its amendments) if work equipment is used in the undertaking for the first time after 31 December 1992. Consequently, Directive 89/655/EEC and this proposed amendment do not relate to the placing on the market of work equipment but deal only with aspects of its use by workers at work.

The first paragraph of Article 1 amends Article 4 of Directive 89/655/EEC so as to include new minimum requirements applicable to certain work equipment and to specify a period for adaptation of equipment already in service. Furthermore two new paragraphs are added to Article 4 to refer to the rules for use set out in Annex II and to provide for flexibility in application of these rules, by leaving the choice of procedure to the Member States in conformity with the principle of subsidiarity.

Paragraph 2 of Article 1 introduces into Directive 89/655/EEC a new article - Article 4b - on inspection of work equipment.

The article aims to extend the principle of initial and periodic inspection for certain work equipment to increase the level of safety.

The inspection are to be carried out in accordance with a plan based on the principles of risk assessment. The plan must at least cover the work equipment listed in Annex 4. The skills which the persons qualified to draw up this plan and to carry out the inspection must have are defined by the Member States on the basis of the minimum requirements set out in Annex V. This legislative technique leaves the Member States free to uphold existing and more stringent systems (e.g. the obligation to have certain inspection which are deemed more critical, to be carried out by third parties from the private sector or to make inspection by the State obligatory) whilst increasing the level of safety in those Member States where no such provisions or less systematic provisions exist.

The other paragraphs of Article 1 cover technical adaptation such as the addition of new annexes and the transfer of some points in the current annex to Directive 89/655/EEC to Annex II where they are better placed.

6.2. Articles 2 and 3

These articles comprise the conventional final provisions and provide that the Member States must comply with the Directive by 31 December 1996 at the latest.

6.3. Annex I

Annex I supplements the existing annex to Directive 89/655/EEC by minimum additional requirements applicable to the following categories of specific work equipment:

- woodworking and allied machinery and presses requiring manual intervention in the danger zone (3.1)**
- mobile equipment (3.2)**
- work equipment for lifting loads (3.3)**
- scaffolding and similar equipment (3.4)**
- work equipment used for detecting non-apparent risks (3.5)**
- bolt-firing tools and similar equipment (3.6)**

These categories are largely selected on the basis of considerations in relation with the machinery Directive 89/392/EEC⁴ amended successively by Directives 91/368/EEC⁵, 93/44/EEC⁶ and 93/68/EEC⁷. 3.1 to 3.3 (and 3.6 in part) state the categories which are subject to special provisions in this Directive. These provisions are aimed at ensuring that physical modifications are made to existing equipment to eliminate excessively dangerous situations or to reduce the hazards involved.

The proposal also extends and applies systematically the requirements of Directive 92/57/EEC covering earthmoving equipment and materials handling, lifting gear, scaffolding, ladders and installations, machines and equipment.

Section II B of Annex IV of Directive 92/57/EEC applies only to certain working sites, namely building and civil engineering sites in the open. However, scaffolding (3.4) is not only used in these circumstances but also in shipbuilding, the aviation industry, in storage areas etc. Moreover, there is no specific Community legislation on free movement and a draft directive

⁴ OJ No L 183 of 29.6.1989, page 9

⁵ OJ No L 198 of 22.07.1991, page 16.

⁶ OJ No L 175 of 19.07.1993, page 12.

⁷ OJ No L 220 of 30.08.1993, page 1.

on "non-permanent structures" was abandoned in the wake of discussions on the principle of subsidiarity. This is why it is particularly important to issue minimum requirements for this type of equipment which afford collective protection and which workers can rely on when they are working at heights.

The same applies for equipment for detecting non-apparent risks (3.5) for which there is no specific Community legislation on free movement either, but the reliable operation of which is vital to protect the health and safety of workers.

When the first directive amending Directive 89/392/EEC, Directive 91/368/EEC was adopted, the Council and the Commission agreed "that bolt-firing tools are firearms (...) and as a result are not within the scope of the machinery directive". Nevertheless, bolt-firing tools are pieces of equipment which present serious hazards and thus need to be handled with special care.

Annex I does not deal with specific properties of equipment for use in explosive atmospheres as this will be covered by a separate proposal for a directive, as already announced in the proposal for a Council directive on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres⁸.

⁸ COM (91) 516 final - SYN of 13 December 1991, OJ No C 46 of 20.2.1992, page 19

Highly complex installations are not dealt with specifically either as the Commission thinks that the general provisions, existing and proposed, will suffice.

As regards the individual specific minimum requirements proposed here, attention should be drawn to some points and some examples given.

As the work equipment covered by 3.1.1 could not do their jobs properly if access to the danger zones was completely protected, alternative devices must be provided for, such as those limiting the range or speed of the movement, tools with predefined characteristics restricting the cutting depth, adjustable protective devices to reduce access etc.

Point 3.2.4 covers the hazard of rollover of working equipment in parallel with the machinery directive. In order for work equipment not originally designed for installation of an ROPS structure to remain in service, alternative protective arrangements are permissible. In one Member State, a similar approach has resulted in a reduction of fatal accidents caused by agricultural tractor rollover to less than a tenth of the previous figure. The obligation to modify existing equipment depends on the actual conditions of use. Annex III of this proposal gives a non-exhaustive list, drawn up on the basis of the free movement directives, of conditions under which certain types of work equipment must be protected against the hazards caused by rollover. Sufficient protection against risks due to falling objects is afforded

by Directive 89/655/EEC which is applicable at any time when this type of hazard exists.

Point 3.3.4 a) is intended to preclude the risk, when lifting workers, of the cabin falling, by means of arresting devices, emergency brakes, multiple cables etc. However, in certain cases, such as in underground mines such devices cannot be installed due to the conformation of the shafts. Equipment must thus be subject to a special inspection routine to ensure a suitable level of safety.

Point 3.4 e) covering scaffolding and similar equipment, the safety devices concerned are safety rails, stabilisers, safety net or anchoring points for personal protective equipment.

6.4. Annex II

Annex II deals with utilisation proper of the work equipment. It is therefore intended to modify the way in which it is used and, in more general terms, the organisation of the work performed with it rather than the equipment itself.

Annex II contains a preliminary remark which restricts its application to situations where the risk covered by the article actually exists. Together with the provision in the new paragraph 4 of Article 4 of Directive 89/655/EEC (setting out the procedure for alternative measures), it provides the required flexibility.

The first part of the annex applies to all work equipment. The order of the various points corresponds to the various phases which work equipment passes through during its service life and largely conforms with the definition of utilisation given in Article 2(b) of Directive 89/655/EEC: installation, commissioning or decommissioning, use, maintenance, etc.

The points deleted in the original Annex (I) of Directive 89/655/EEC have been moved to this Annex, sometimes with additions. They are points 1.1 (from Annex I 2.6.), 1.8 (paragraph 1) (from 2.12) and 1.19 (from 2.13 paragraph 2).

It should be noted that 1.10 covers not only interchangeable tools and accessories but also combinations of several pieces of equipment which can also function separately and highly complex installations with multiple interaction.

The second part of the Annex applies to mobile work equipment. Some of the minimum prescriptions govern only self-propelled equipment, i.e. equipment with its own drive unit, and others apply to equipment which is moved mechanically, i.e. self-propelled equipment and trailers and/or tow gear.

The third part deals with the use of equipment for lifting loads. One section contains general provisions and another section provisions which apply only to lifting non-guided loads. This is a key chapter, especially points 3.1.3, 3.2.3, 3.2.4 and 3.2.6, since almost two-thirds of the victims of accidents involved in lifting non-guided loads are workers helping in the vicinity of the load and one-fifth are workers not directly involved in the lifting operations.

The fourth part of Annex II covers other special work equipment mainly pressurised equipment and bolt-firing tools.

6.5. Annex III

Annex III comprises a non-exhaustive list of the conditions of use under which certain pieces of equipment must be protected against the hazards caused by rollover. The restriction on power of 15 kW provided for here and the equipment listed in the first box on the left are taken from the Machinery Directive. The power limit avoids excessive requirements for adapting protection on small equipment. In cases where there is still a risk of roll-over in a low-power unit, it would have to be made to comply with the requirements or excluded from this type of use.

6.6. Annex IV

Annex IV comprises a non-exhaustive list of work equipment which must be covered by an inspection plan provided for by Article 4b, paragraph 4.

Point 1 lists a series of types of work equipment which are regarded as being particularly critical. The Commission has decided against stipulating a minimum period between inspections, given the diversity of sub-categories and, in order to respect the principle of subsidiarity, has left it up to the Member States to stipulate the frequency of inspections as required.

Point 2 requires an inspection to be carried out on lifting equipment which can be dismantled (e.g. slewing tower cranes), scaffolding and similar work equipment and hyperbaric or hypobaric chambers each time they are reassembled.

6.7. Annex V

Annex V lays down the minimum competence criteria for persons qualified to draw up inspection plans and carry out inspections.

This Annex is couched in fairly general terms in order to cover the entire range of in-service inspections, which require degrees of skill which vary with the circumstances and some of which are too complex for a single person to cope with. The Annex thus provides that the persons can be either physical persons - who may or may not belong to the enterprise - or organisations.

It will be up to the Member State, in accordance with the principle of subsidiarity, to issue more precise - and, if they so decide, more stringent - criteria. In the Commission's opinion, the approach adopted in this Annex reconciles fundamentally different approaches observed in the Member State which range from voluntary schemes and accreditation systems to mandatory inspections carried out by State departments. Depending on the type of equipment, each Member State will thus be able to select the system which suits it best, as long as the minimum criteria of the proposal are satisfied.

**PROPOSAL FOR A COUNCIL DIRECTIVE AMENDING
DIRECTIVE 89/655/EEC ON THE MINIMUM HEALTH AND
SAFETY REQUIREMENTS FOR USE BY WORKERS OF WORK
EQUIPMENT AT WORK**

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community and in particular Article 118A thereof,

Having regard to the proposal from the Commission¹,

In cooperation with the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

Whereas Article 118A of the Treaty provides that the Council shall adopt by means of directives minimum requirements for encouraging improvements, especially in the working environment, to guarantee a better level of protection of the safety and health of workers;

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Whereas, pursuant to the said article, such directives must avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized enterprises;

Whereas, therefore, the Member States must take measures to facilitate implementation of the provisions of this Directive by enterprises, in particular small and medium-sized enterprises; whereas such measures may include training and information activities and the introduction of standard inspection programmes adapted to the specific requirements of the various sectors of the economy;

Whereas the provisions of this article do not prevent each Member State from establishing and maintaining more stringent protective measures, compatible with this Treaty, governing conditions of work;

Whereas Article 9(1) of Directive 89/655/EEC⁴ provides for the addition to the annex of supplementary minimum requirements applicable to work equipment covered by point 3 of the annex, in accordance with the procedure under Article 118A of the Treaty; whereas Directive 92/57/EEC⁵ provides that certain parts of Annex IV B, Section II will be specified at the same time;

⁴ OJ No L 393 of 30.12.1989, p. 13

⁵ OJ No L 245, 26.8.1992, p. 6

that certain parts of Annex IV B, Section II will be specified at the same time;

Whereas Directive 89/655/EEC should be supplemented by minimum requirements concerning inspections to be carried out on certain work equipment during use and laying down certain rules for use with a view to promoting the health and safety protection of workers;

Whereas this Directive must confine itself to defining the objectives to be achieved and the principles to be respected in such a way as to leave the Member States free to decide how this is to be done,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 89/655/EEC is amended as follows:

1) Article 4 is amended as follows:

- in paragraph 1(a)(ii) the words "I, points 1 and 2" are inserted after the word "Annex";
- in paragraph 1(b) the following text is added: "I, points 1 and 2 and by 31 December 2000 at the latest with the minimum requirements laid down in point 3 of Annex 1"
- paragraphs 3 and 4 as follows are added:
 - "3. The employer shall take the measures necessary to ensure that, during use of the work equipment, the minimum requirements listed in Annex II are respected.
 4. The Member States shall, after consultation with management and labour, establish procedures for authorising alternative means of protection and/or organisation of work as long as this guarantees an equivalent level of safety, where the specific conditions of use do not permit application of the minimum requirements set out in paragraph 3".

2) The following article is inserted:

Article 4 b

Inspection of work equipment

1. The employer shall ensure that where the safety of work equipment depends on the installation conditions, it shall be subject to an initial inspection (after installation and before first being taken into service) and after assembly at a new site, to ensure that the work equipment has been installed correctly and is operating properly.

2. The employer shall ensure that work equipment exposed to conditions causing deterioration which is liable to result in dangerous situations are subject to
 - periodic inspections and
 - special inspections each time that exceptional circumstances which are liable to jeopardise the safety of the work equipment have occurred, such as modification work, accidents, heavy storms or prolonged periods of inactivity,

so that the deterioration can be detected and remedied in good time.

3. Pursuant to paragraph 2 and without prejudice to the provisions of Article 6(3) of Directive 89/391/EEC, the employer shall draw up or have drawn up a plan for the inspection of work equipment based on the intended conditions for use and taking account of any information furnished by the manufacturers.

This plan shall determine the type and frequency of the inspections and the methods used - and, if necessary, any circumstances making it necessary to perform special inspections - the specific competence required for inspection and the criteria to be applied on evaluation, and the conclusions to be drawn therefrom.

The schedule shall also indicate the effective conditions of use under which it is valid.

4. The inspection plan under paragraph 3 shall cover at least the work equipment listed in Annex IV, paragraph 1. Inspections under paragraph 1 must be carried out at least in the cases covered by Annex IV, paragraph 2.

5. **The Member States shall specify the criteria governing the competence required for drawing up the inspection plans under paragraph 3 and for carrying out the inspections under paragraphs 1 and 2 based on the minimum criteria given in Annex V.**

6. **Member States shall take measures to facilitate the implementation by enterprises, in particular small and medium-sized enterprises, of the provisions laid down in the preceding paragraphs. These measures may include training and information activities targeted at enterprises and the introduction of standard inspection programmes adapted to the specific requirements of the various sectors of the economy.**

7. **The results of inspections must be recorded and kept at the disposal of the authorities concerned. They must be kept for a suitable period of time.**

When work equipment is used outside of the enterprise it must be accompanied by physical evidence that the last inspection has been carried out."

3) Article 8 is amended as follows:

the words "the Annex" are replaced by "the Annexes".

4) Article 9 is amended as follows:

- in paragraph 1 "the Annex" (twice) is amended to "Annex I";

- in paragraph 2 the words "the Annex" are replaced by "the Annexes".

5) The Annex becomes Annex I.

2.6, 2.12 and 2.13 paragraph 2 are deleted.

In 2.16 the words "loading and unloading" are inserted after "production".

At the end of the Annex the words "as referred to in Article 9(1) of the Directive" are deleted.

The text under Annex I of this Directive is added to Annex I.

6) Annexes II, III, IV and V of this Directive are added.

Article 2

Final provisions

1. **Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1996 at the latest. They shall forthwith inform the Commission thereof.**

When Member States adopt these provisions they shall contain a reference to this Directive or shall be accompanied by such reference on official publication. The manner in which this reference is made shall be left to the Member States.

2. **Member States shall communicate to the Commission the texts of the provisions of national law which they have already adopted or adopt in the field governed by this Directive.**

Article 3

This Directive is addressed to the Member States.

Done at

for the Council

The President

ANNEX I

3.1. Minimum requirements for woodworking and allied machinery and presses where the conditions of use require regular manual intervention in the danger zone.

3.1.1. Where such work equipment cannot, because of its operating mode be equipped with protective devices to prevent access to danger zones entirely or to stop the movement of moving parts before access is obtained to danger zones, the hazards to workers when operating in the danger zones must be reduced to a minimum.

- 3.1.2. Work equipment used in conditions in which there is a risk of kick-back or entrapment of the work piece must be equipped or adapted (with appropriate protective devices) in order to reduce this hazard and its effects.**
- 3.1.3. Where an operator obliged to intervene manually on work equipment is placed at risk through residual energy in that equipment, it must be so adapted that the hazard is eliminated. If necessary, it must be possible to dissipate the accumulated energy easily without it constituting a safety hazard to workers.**
- 3.2. Minimum requirements for mobile work equipment, whether or not self-propelled.**
- 3.2.1. Work equipment with ride-on workers must be fitted out such as to ensure that the workers can remain in complete safety during the journey. Places for standing passengers must be such that workers can place both feet fully on a non-slip, if necessary slatted, surface and that at all times during the journey they have a sound hold, including when they are moving around on the work equipment. The risk of inadvertent contact of the ride-on workers with wheels or tracks or of workers being crushed by wheels or tracks must be kept to a minimum.**

3.2.2. Where an inadvertent blockage of the drive unit of an item of mobile work equipment might create a specific risk, such equipment must be equipped or adapted to prevent blockages or to avoid any adverse effects on workers where such blockage cannot be avoided.

3.2.3. Where drive shafts for the transmission of energy between mobile items of work equipment can become soiled or damaged by trailing on the ground, facilities must be available for fixing them.

3.2.4. Mobile work equipment with ride-on workers must be designed to restrict, under actual conditions of use, the risks arising from work equipment rollover:

- **either by a protective structure to ensure that the equipment does not tilt by more than a quarter turn;**
- **or a structure giving sufficient clearance around the ride-on workers if the tilting movement continues beyond a quarter turn.**

These protective structures may be an integral part of the work equipment. Where there is a risk of a ride-on worker being crushed between a protection structure and the ground a restraining system for the ride-on workers must be installed. These protective structures are not required when the work equipment is - except for transfer to and from the site of work - stabilised during operation or where the design makes rollover impossible.

Annex III gives a non-exhaustive list of conditions of use for some mobile work equipment requiring protection against the hazards caused by rollover.

3.2.5. Self-propelled work equipment which may, in motion, engender risks for persons must fulfil the following conditions:

- a) the equipment must have facilities for preventing unauthorised start-up;**
- b) it must have appropriate facilities for minimising the consequences of a collision where there is more than one item of track-mounted work equipment in motion at the same time;**
- c) there must be a device for braking and stopping work equipment. Where safety constraints so require, emergency facilities with readily accessible controls must be available for braking and stopping the equipment in the event of failure of the main facility;**
- d) there must be auxiliary devices to improve visibility if the direct field of vision of the driver is inadequate;**

- e) **work equipment designed for use at night or in dark places must be equipped with lighting appropriate to the work to be carried out;**
- f) **work equipment which constitutes a fire hazard, either on its own or in respect of whatever it is towing and/or carrying and which is liable to endanger workers, must be equipped with appropriate fire-fighting appliances where such appliances are not available sufficiently nearby at the place of use;**
- g) **remote-controlled work equipment must stop automatically once it leaves the control range;**
- h) **remote-controlled work equipment which may in normal conditions engender a crushing or impact hazard must have facilities to guard against this risk.**

3.3. Minimum requirements for work equipment for lifting loads.

- 3.3.1. **When work equipment is installed permanently, the loads to be lifted and the stress induced at the mounting or fixing point must be taken into account to safeguard the equipment's strength and stability.**

3.3.2. Work equipment must be clearly marked to indicate its maximum capacity.

Lifting accessories must be marked such that it is possible to identify the characteristics essential for safe use. Work equipment which is not designed for lifting persons but which might be so used in error must be appropriately and clearly marked to this effect.

3.3.3. Where loads handled by work equipment pass over or are close to travelled ways protective devices must be installed to ensure that:

- a) workers are not struck by the load,**
- b) in the event of partial or total power supply failure or the termination of an operation, the load cannot drift dangerously or fall freely,**
- c) the load cannot be released unintentionally.**

3.3.4. Work equipment for lifting workers must be such as to:

- a) prevent the risk of the lift cage falling by suitable devices,**
- b) prevent the risk of the user himself falling from the cage,**
- c) prevent the risk of the user being crushed, trapped or struck caused by the absence of an internal cabin door,**
- d) ensure that persons trapped in the cage in the event of an incident are not exposed to danger and can be freed.**

If for reasons inherent to the site and to height differences, the risks referred to in point a) cannot be avoided by any safety measures, an enhanced safety coefficient suspension rope must be installed and checked every working day in accordance with the conditions set out in Article 4b.

3.4. Minimum requirements for scaffolding and similar work equipment to facilitate worker access to and presence at workstations at height.

This work equipment must be such as to prevent the risk of falls and/or falling objects. To this end:

- a) the work equipment must be able to withstand foreseeable loads during the use, particularly those resulting from materials and tools that have to be placed on the work equipment and/or used to carry out the work,**
- b) any excessive flexion and excessive oscillation or torsion movement must be precluded where equipment is being used according to instructions,**
- c) the work equipment must neither slip nor overturn nor shift nor collapse when in position for use,**
- d) erection, dismantling and any modifications required of non-permanent work equipment must be able to be carried out in safety,**
- e) work equipment must incorporate integral safety devices or ones which are readily attachable to the structure,**

- f) **the work equipment must afford sufficient room for the work to be carried out and for the requisite materials and tools to be set down.**

3.5. Minimum requirements for work equipment used for detecting non-apparent risks.

Such work equipment must be such as to avoid, bearing in mind the conditions of use, any risks arising from the faulty display or interpretation of the measuring signal. Where appropriate, it must be possible to verify the operational condition of the work equipment at any time.

3.6. Minimum requirements for bolt firing tools, captive bolt guns, nail drivers and the like.

It must not be possible to fire bolt firing tools, captive bolt guns, nail drivers and similar work equipment easily or without the application of a certain degree of force. Where it is not possible to meet this condition, the device should be rearmed for each shot.

ANNEX II

Minimum requirements concerning the use of work equipment referred to in Article 4(3)

0. Preliminary remark

The obligations laid down in this Annex apply having regard to the provisions of the Directive and where the corresponding risk exists for the work equipment in question.

1. Minimum requirements of a general nature for all work equipment.

1.1. Work equipment and its components must, if necessary for the health and safety of workers, be stabilised by anchoring or other means.

1.2. Work equipment must be installed and located such that there is sufficient space between moving parts and fixed or moving parts in their environment and such that all forms of energy and substances used or produced can be supplied and/or removed in a safe manner.

- 1.3. Work equipment must be erected or dismantled under safe conditions, observing any instructions which may have been furnished by the manufacturer.
- 1.4. Work equipment installed or erected in the open must be protected against lightning strike by lightning conductor equipment or other suitable means.
- 1.5. In respect of the installation and use of electrically operated work equipment, care must be taken that the electrical components, including connecting leads, are protected against harmful external influences. Conductors must be properly insulated. All electrical work equipment and systems must be earthed or protected by other suitable means of precluding any risk of accident due to direct or indirect contact.
- 1.6. Where work equipment is installed, erected or used below or in the vicinity of overhead electrical power lines, appropriate measures must be taken to avoid any contact of workers and/or their work equipment with the lines or electrification of workers.

1.7. Work equipment which is taken out of service must be fitted with guards and protective and safety devices as prescribed. Otherwise, the equipment must be dismantled or rendered inaccessible or unusable by removing and taking away essential operating parts.

1.8. Work equipment may not be used for operations or in conditions for which it is inappropriate.

Whenever necessary from the point of view of health and safety of workers, work equipment must be used with the safety devices and accessories prescribed for the various types of use.

1.9. Before modifying work equipment or its conditions for use to an extent exceeding that envisaged by the manufacturer, the measures set out in Article 6 of Directive 89/391/EEC must be taken.

1.10. If work equipment has to be combined, its mutual compatibility must be assured and use must be limited as indicated by the manufacturers and/or having regard to any supplementary restrictions.

1.11. No work may be carried out on electrical equipment or installations unless precautions have been taken to safeguard the safety of every worker involved or liable to be involved in the work.

1.12. Dead work shall not begin on electrical installations until, where necessary to prevent electrical danger, the following measures have been taken:

- the electrical installation or equipment to be worked on has been positively identified; and**
- the electrical installation or equipment has been disconnected from all sources of electrical energy; and**
- measures to prevent reconnection to any source of electrical energy have been taken; and**
- the absence of voltage on the electrical installation or equipment has been verified by the use of suitable means; and**
- the electrical installation or equipment has been earthed and short-circuited where necessary by suitable means; and**

- measures have been provided or measures taken to prevent persons approaching and/or contacting any live parts which present an electrical danger in the vicinity of the work activity.

1.13. Live work shall not begin on an electrical installation without ensuring that:

- it is unreasonable for the electrical installation to be dead; and
- it is reasonable for the work to be carried out on the electrical installation while it is live; and
- suitable precautions, including where necessary the provision of suitable electrical safety equipment, are taken to prevent injury.

1.14. If one or more workers have to have access to parts of work equipment where there is a risk arising from oxygen deficiency, temperature, gas dusts, liquids, vapours or other substances, an emergency intervention and rescue procedure must be drawn up. Access for workers must be rendered safe, by means of prior ventilation or emptying or by some other suitable means; a check must be carried out to ensure that the required result has been obtained. Protection measures must be maintained during the intervention period. At least one person with whom there is reliable communication must remain present outside the work equipment during the intervention to ensure

that the worker or workers can be rescued if necessary. The necessary rescue equipment must be available in situ.

- 1.15. Where work equipment contains flowing or aspirated materials, workers must, by appropriate means, be kept at a sufficient distance to ensure that they are not buried or sucked in.
- 1.16. Mobile or portable work equipment equipped with tools or accessories which cannot be entirely protected may be used only if no worker other than the operator is in the danger zone of these tools or accessories.
- 1.17. Mechanically operated work equipment, including all moving parts which are potential hazards, must be shut down for the purposes of repairing breakdowns, unblocking jammed moving parts and carrying out adjustment, servicing, cleaning or maintenance work.

Where there is no alternative to carrying out work on moving parts, other measures must be taken to ensure that work can be conducted in safety, also when attempts are being made to resume operations.

- 1.18. **Workers must be equipped with suitable tools for removing in safety foreign objects or pieces of material from the vicinity of moving parts, otherwise these parts must be shut down.**
 - 1.19. **Work equipment inspection records must be kept up to date.**
 - 1.20. **In respect of changes being made to a programme of reprogrammable control systems, steps must be taken to ensure that safety functions are preserved, adjusted or supplemented. Any changes must be documented.**
2. **Minimum specific requirements for the use of mobile work equipment, whether or not self-propelled.**
 - 2.1. **Self-propelled work equipment shall only be driven by workers who have been specially trained in the safe driving of such equipment. Workers undergoing driving training must be under constant supervision.**

- 2.2. If several pieces of equipment are moving around in the same area, traffic rules must be drawn up and respected.
- 2.3. Organisational measures must be taken to prevent workers on foot coming within the vicinity of self-propelled work equipment operating in restricted areas. If work can be done properly only if workers on foot are present, appropriate measures must be taken to prevent them from being run over.
- 2.4. The transport of workers on mechanically driven mobile work equipment is authorised only where safe facilities are provided to this effect. If work must be carried out during the journey, speeds must be adjusted as necessary.
- 2.5. Mobile work equipment with a combustion engine may not be used in enclosed spaces or galleries unless sufficient quantities of clean air can be guaranteed.
- 2.6. Remote-controlled work equipment must be operated such that it is at all times within the operator's field of vision or field of control.

- 2.7. **Mobile work equipment may not be loaded such that workers are placed at risk during transport. In particular, free masses of loaded material may not set up dynamic forces liable to compromise the stability of the equipment.**
 - 2.8. **When energy transmission units between mobile work equipment have been disconnected they must be fixed so as not to drag on the ground.**
 - 2.9. **In connection with the use of mobile work equipment which, by design, projects objects or materials, appropriate measures must be taken to ensure that no worker is in the projection zone.**
3. **Minimum requirements for the use of work equipment for lifting loads.**
 - 3.1. **Minimum requirements for the use of work equipment for lifting guided or non-guided loads.**
 - 3.1.1. **Mobile or movable work equipment designed for lifting loads may be used only on a base which is sufficiently resistant to ensure the stability of the work equipment during use.**

3.1.2. Persons may be lifted only by means of work equipment and accessories provided for this purpose. Exceptionally, and judging each case on its merits, the competent authorities may authorise work equipment which is not specifically designed for the purpose of lifting persons to be used to this effect, provided that specially designed accessories are used.

When persons are being lifted the control position must be manned at all times. Persons being lifted must have reliable means of communication. In the event of danger, there must be reliable means of evacuating them.

3.1.3. Workers may not be present under suspended loads. Loads may not be moved above unprotected workplaces occupied by workers.

However, if work cannot be carried out properly any other way, appropriate procedures must be laid down and applied.

3.1.4. Lifting accessories must be selected as a function of the loads to be handled, gripping points, attachment tackle, atmospheric conditions and the mode and configuration of slinging. Lifting accessory tackle must be clearly marked so that users are aware of its characteristics where such tackle is not dismantled after use.

3.1.5. Lifting accessories must be stored away from harmful atmospheric conditions and rodents.

3.2. Minimum requirements for the use of work equipment for lifting non-guided loads.

3.2.1. When two or more items of work equipment used for lifting non-guided loads are installed or erected on a site such as their working radii overlap, appropriate measures must be taken to avoid collision between the loads and/or the work equipment parts themselves.

3.2.2. When using mobile work equipment for lifting non-guided loads, measures must be taken to prevent the equipment from tilting, overturning or, if necessary, moving or slipping. Checks are to be made to ensure that these measures are executed properly.

- 3.2.3. If the operator of work equipment designed for lifting non-guided loads cannot observe the full path of the load either directly or by way of auxiliary equipment providing the necessary information, a competent person must be in communication with the operator to guide him and organisational measures must be taken to prevent collisions of the load which could endanger workers.**
- 3.2.4. While a worker is attaching or detaching a load by hand, operation of the work equipment must be under his authority.**
- 3.2.5. If a load has to be lifted by two or more items of work equipment for lifting non-guided loads simultaneously, a procedure must be established and applied to avoid any risk resulting from poor coordination on the part of the operators. These operations may only be carried out in the presence of a responsible person other than the operators of the work equipment concerned.**
- 3.2.6. If work equipment designed for lifting non-guided loads cannot maintain its hold on the load in the event of a complete or partial power failure, appropriate measures must be taken to avoid exposing workers to any resultant risks.**

Suspended loads must not be left without surveillance unless arrangements have been made to prevent access to the danger zone.

3.2.7. Work equipment designed for lifting non-guided loads, including the gripping devices, accessories and support structure, must be kept under surveillance during work so as to detect any defects. Should any such defects jeopardising the safety of operation be detected, work must be stopped immediately and necessary steps taken to ensure that the equipment no longer constitutes a hazard.

3.2.8. Use in the open of work equipment must be halted when the meteorological conditions deteriorate to the point of jeopardising the safe use of the equipment and exposing workers to risks. Additional protection measures to avoid work equipment turnover must be taken to avoid any risks to workers.

4. Specific minimum requirements for the use of other specific work equipment.

- 4.1. Work equipment designed to contain and distribute liquids, vapours or gases under pressure or liquified must be used such as to avoid exceeding permissible service temperatures and pressures and, where appropriate, the levels of the liquid phase. Any attachments must be protected against the risk of mechanical, chemical or biological damage.
- 4.2. Pressure vessels subject to high temperature heat exchange and/or exposed to flames must be used under constant surveillance unless they are self-regulated or incorporate fail-safe facilities.
- 4.3. When filling pressurised systems, operators must have appropriate means for overseeing and respecting the filling conditions.
- 4.4. Pressurised systems which previously contained flammable, corrosive or toxic substances must be depressurised and vented before being taken out of service permanently, without causing any risk to workers.
- 4.5. The relevant characteristics of materials on which it is intended to use a bolt firing tool or similar work equipment must be identified prior to use. If firing is liable to jeopardise other workers, additional precautions must be taken.

ANNEX III

Non-exhaustive list - covered in Annex I, 3.2.4, last paragraph - of the conditions of use for which certain mobile work equipment must be protected against the *hazards caused by* rollover.

Work equipment with a power rating of over 15 kW	Conditions of use
<ul style="list-style-type: none">- trawler loaders or wheel loaders- back hoe loaders- trawler tractors or wheel tractors- scrapers (self-loading or not)- graders- articulated steer dumpers	work involving movement in the vicinity of height differences of more than 1 m, including trenches and ditches of a width exceeding 0.50 m and slopes steeper than 25%
self-propelled industrial trucks	all conditions
agricultural, forestry and viticultural tractors	all conditions

ANNEX IV

Non-exhaustive list of work equipment to be included in the inspection schedule referred to in Article 4b(4)

1. a) **Hyperbaric and hypobaric chambers, including their accessories, are used as an enclosure for workers**
- b) **mobile work equipment with a maximum speed of over 15 km/h**
- c) **work equipment, and its accessories, for lifting loads of more than 300 kg and/or for lifting workers where there is a risk of falling from a height of more than 3 m**
- d) **cable haulage installations designed to be erected at various sites**
- e) **installations for storing and filling flammable liquids**

f) **pressurised work equipment in one of the categories subject under Directive .../.../EEC¹ to certification procedures requiring intervention by third parties or comparable organisations**

g) **safety components and non-material barriers.**

2. **Correct installation and stability of lifting gear which can be dismantled, work equipment for facilitating access to and the presence of persons at workstations at a height and hyperbaric and hypobaric chambers within the meaning of point 1a) must be examined each time they have been erected on a new site and before they are taken into service. Hyperbaric and hypobaric chambers must also undergo inspection for leakage.**

¹ COM (93) 319 final - SYN 462 - OJ.No C 246 of 09.09.1993, page 1.

ANNEX V

Minimum competence criteria within the meaning of Article 4b(5)

1. **Competent persons must be either natural or legal persons, whether belonging to the enterprise or not.**

The competent person must have in his possession the full range of knowledge and experience necessary to handle all the aspects concerning the safety of a piece of work equipment or a work equipment system. Depending on the nature and complexity of the work equipment concerned, the expertise of more than one person might be necessary.

The same competent person may be involved at different stages of the inspection procedure, an independent competent person must be called in whenever the requisite expertise is not available within the enterprise itself.

2. A person competent to draw up plans for the inspection of work equipment must have an overall understanding enabling him to assess the influence of different conditions of use on the safety condition of the work equipment under consideration.

To this end he must:

- a) possess the necessary professional qualifications based on theoretical and practical knowledge and experience commensurate with the type of equipment where appropriate, including the operation of systems of work equipment
- b) have knowledge of the applicable laws
- c) have knowledge of the various forms of inspection so that he can give precise indications as to their application and the interpretation of the results including any requisite measures
- d) be sufficiently independent of other interests, particularly those of the person responsible for equipment operation.

3. The person competent to carry out the inspections must:

- a) have the necessary professional qualifications based on theoretical and practical knowledge and experience commensurate with the equipment under consideration**
- b) have appropriate knowledge of the applicable laws**
- c) have knowledge and sufficient practical experience of the inspections to be carried out, and of evaluation of the results**
- d) be able to draw up test certificates and/or reports**
- e) be sufficiently independent of other interests particularly those of the person responsible for equipment operation as regards the conduct and evaluation of the inspection.**

IMPACT EVALUATION SHEET

**Impact of the proposals on enterprises
and in particular on small and medium-sized
enterprises (SMEs)**

Title of the proposal: Proposal for a Council directive amending Directive 89/655/EEC on the minimum health and safety requirements for use by workers of work equipment at work

Proposal:

1. Justification for the proposal with regard to the principle of subsidiarity - main objectives

- a) The proposal does not infringe the principle of subsidiarity, as only Community action can guarantee in all the Member States a minimum level of protection of workers against the risks arising from using work equipment and will enable a common threshold to be established, thus precluding social dumping.

Moreover, Directive 89/655/EEC provides explicitly in Article 9, paragraph 1 that "in addition to the Annex of the supplementary minimum requirements applicable to specific work equipment (...) shall be adopted by the Council in accordance with the procedure laid down in Article 118a of the Treaty". This thus excludes use of the procedure for adjustments of a strictly technical nature provided for in Article 17 of Directive 89/391/EEC.

Furthermore, Council Directive 92/57/EEC on the minimum safety and health requirements applicable in mobile or temporary work sites provides that items 6, 7, 8 and 9 of Annex IV, part B, section II shall be "specified in

the framework of the future directive amending Directive 89/655/EEC, particularly with a view to supplementing point 3 of the Annex thereto".

The proposal will encourage greater flexibility in internal employment in the Community as workers will be sure to find at least the minimum level of protection for their health and safety in all the Member States. The employers can also rest assured that production costs will not be subject to unacceptable distortions due to excessive differences in the level of protection of health and safety at work between Member States.

Furthermore, enterprises operating in other Member States than the one in which they are established will also benefit from convergence of the rules on the protection of health and safety of workers, especially when they take their own work equipment to another country or when they procure equipment in another Member State either by hiring it or by purchasing it second-hand.

As it is unlikely that the objectives pursued by this proposal could be achieved by Member States acting individually, concerted Community action is deemed necessary.

- b) The area dealt with here merits special attention due to the dangers inherent in certain categories of work equipment. Indeed, as information received from the Member States shows, a large proportion of accidents at work is linked with the use of work equipment covered by this proposal.

For this purpose the proposal aims to improve the level of safety and, in turn, the physical characteristics of certain work equipment by adding supplementary provisions to Directive 89/655/EEC.

It is also intended to have an effect on practices involving the use of work equipment and therefore sets out general and specific rules for use.

The proposal establishes the principles for in-service inspection of work equipment to detect as early as possible any situations and deterioration which could cause serious accidents.

Impact on enterprises

2. Enterprises concerned

The scope of the directive is very wide and covers all sectors of activity: industry, agriculture, extractive industries and, to a lesser extent, services.

Enterprises of all sizes and in all geographical areas of the Community are covered.

3. **Obligations of enterprises**

When the directive enters into force, enterprises will have a period of four years within which to ensure that specific work equipment already used complies with Annex I. Enterprises investing in new equipment will also have to choose equipment which complies with these specifications, unless it is covered by harmonisation directives (this applies to scaffolding, equipment used for detecting risks and bolt-firing tools).

The proposal also introduces rules for using work equipment which require sound organisation of work. In order to take account of specific situations, it is up to the Member States to determine how alternative measures can be applied to guarantee the same level of safety.

Finally, the proposal establishes the principles for in-service inspection of work equipment to detect at an early stage any deteriorations which could cause accidents.

An inspection plan, which must cover certain items of work equipment, must be drawn up on the basis of a preliminary analysis and must be implemented. Minimum criteria for the competence required in drawing up the plan and implementing it are also stated.

4. **What economic effects is the proposal likely to have?**

On employment

As the proposal does not contain any provisions likely to result in restructuring or reorganisation of enterprises, no adverse effects on employment levels need be feared.

On investment and creation of new enterprises

According to the impact study carried out on behalf of the Commission, which relates mainly to Italy, the specifications in Annex I concerning the adaptation of equipment will mainly affect existing stocks of equipment, since manufacturers of new machines will have sufficient time in which to adapt their production. With regard to existing stocks, the cost of adapting equipment will be limited on account

of the transitional period allowed (4 years) and the normal obsolescence of a large amount of this material, which would have to be replaced in any case. The study concludes that any adaptations which need to be made should not cost any more than the average cost of special maintenance.

However, the CBI (Confederation of British Industry) drew attention to the fact that implementation of Directive 89/655 proved to be more costly for enterprises than initially anticipated.

With regard to Annex 2 on the use of work equipment, the impact study shows that the cost is attributable to the introduction of new organisational procedures in enterprises. The bulk of expenditure would be used to implement preventive training measures for staff. The difficulties which SMEs will experience should not be underestimated.

With regard to the competence of persons responsible for carrying out inspections, the impact study did not reveal any significant difficulties in Italy, given the stringent national laws in this area. However, other studies anticipate difficulties in complying with the criterion of "independence" of the inspector in relation to his other duties: in small enterprises the person responsible for inspecting an installation may also be the one responsible for its use (this applies in particular to the assembly of scaffolding, lifts and elevating platforms).

The impact study highlights the benefits of the Directive in terms of a reduction in the number of accidents and in social and insurance costs. Furthermore, the proposal will not have any adverse effects on the creation of new undertakings, first because the directive does not touch on any aspects directly related to launching an undertaking and second because when an entrepreneur purchases equipment on the market, he can choose machinery which already meets the requirements of the proposal.

On competitiveness

As far as the problem of competitiveness is concerned, the main question is an enterprise's capacity to hold its ground or strengthen its position in the market in the presence of exogenous variables such as changes in legislation, rather than the precise contents of these changes. As the proposal makes no distinction between the enterprises covered, it does not interfere in this process.

5. Measures designed to take account of the special requirements of SMEs

Article 1. 2(6) of the proposal provides that Member States shall take measures to facilitate the implementation by enterprises, in particular small and medium-sized enterprises, of the provisions laid down in the preceding paragraphs. These may include training and information activities targeted at enterprises and the introduction of standard inspection programmes adapted to the specific requirements of the various sectors of the economy.

Consultation

6. Organisations consulted and the main thrust of their comments

The Commission consulted officially the Advisory Committee for Safety, Hygiene and Health Protection at Work and the Safety and Health Commission for the Mining and other Extractive Industries which delivered their opinions on 25 February and 22 June 1993 respectively.

The two opinions were fairly similar. They requested that:

- the proposal be presented in the form of a directive amending directive 89/655/EEC and not as independent of it,
- that existing in-service inspection systems in the various Member States be taken account of,
- the date of entry into force of the proposal be established in relation to that given in Directive 89/655/EEC,
- that the specific characteristics of the extractive industry be taken into account.

Furthermore, the Commission received comments from European industrial federations (AEGPL, EIGA, FEM, CEFIC) and national ones (CBI), inspection organisations (CEOC, SA) and ministries and semi-government organisations in the Member States (SZW, HSE, BfA, ZefU). The comments mainly covered the application of provisions for in-service inspection on pressurised equipment and on other points of detail.

SECTION 1: FINANCIAL IMPLICATIONS

1. TITLE OF THE PROPOSAL:

Proposal for Council Directive amending Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work.

2. BUDGET HEADINGS INVOLVED

B3-4310: Health protection, hygiene and safety at work, including specific measures in connection with completion of the internal market.

A 2510: Costs involved in convening the committees which must be consulted under the obligatory procedure for the drafting of Community acts (Adaptation Committee as envisaged in Article 17 of Directive 89/39/EEC).

A 2531: Advisory Committee on Safety, Hygiene and Health Protection at Work.

3. LEGAL BASIS

- Article 118a of the EC Treaty.
- Directive 89/391/EEC (EC OJ L 183 of 29.6.89, p. 1)
- Directive 89/655/EEC (EC OJ L 393 of 30.12.89, p. 13).
- Council Resolution of 21 December 1987 on Safety, Hygiene and Health at Work + Commission Communication on its programme concerning safety, hygiene and health at work (EC OJ C 28 of 3.2.1988)

4. DESCRIPTION OF OPERATION

4.1 Specific objectives

4.1.1 Objectives of the proposal for a Directive

The aims of the proposal are as follows:

- **progressive improvement in the protection of safety and health of workers when using work equipment**

- **harmonisation - as provided for in Article 118a of the Treaty - of the minimum health and safety requirements to be observed when using work equipment, in particular with respect to periodic inspection.**

In formal terms, the proposal is intended as a response to the Council's invitation to supplement Directive 89/655/EEC.

4.1.2 Characteristics of the proposal for a Directive (with particular emphasis on those with financial impact)

- 4.1.2.1 The proposal, particularly the annexes, is to be adapted and completed as directives on technical harmonisation and standardisation are adopted, and to keep pace with technical progress, new regulations and international specifications and new knowledge in the area of work equipment.

4.1.2.2 The proposal provides for the Member States to inform the Commission of all national legal provisions implementing the proposal and to forward progress reports on implementation.

4.1.2.3 It also provides for a Committee to assist the Commission in the above-mentioned work on adaptation.

The financial impact arises from the planned and envisaged supplementary activities.

4.2 Duration

Unspecified.

4.3 Target population

Enterprises in all sectors of activity.

5. CLASSIFICATION OF EXPENDITURE

5.1 NCE

6. NATURE OF EXPENDITURE

6.1 100% funding

7. FINANCIAL IMPACT ON APPROPRIATIONS FOR OPERATIONS (PART B OF THE BUDGET)

7.1 Calculation method

7.1.1 Nature of supplementary activities to be undertaken following adoption of the Directive

- a) Monitoring and appropriate supporting measures for application of the Directive in the Member States
- b) Revision of annexes

7.1.2 Type of activities generated under 7.1.1 and their financial impact

* Research and/or services supply contracts for:

- comparison and evaluation of information received by the Commission,
- study of problems arising from application of the Directive,
- study of problems arising from the annexes, and preparation of their adaptation.

* costs incurred in connection with consultation meetings with experts

7.1.3 Calculation of expenditure

As only the nature and type of the supplementary activities is known, with no indication of figures or scale, it is impossible to give a precise estimate of expenditure.

Costs are calculated on a man/month unit basis, which currently represents ECU 4000.

7.3 Schedule of commitment (CA) and payment (PA) appropriations

Item B3-4310

The appropriations for this operation are to be determined annually in accordance with availability of funds and the appropriations allocated to this item under the budgetary procedure.

Estimated requirements for 1996 are ECU 250 000. Requirements from 1997 will follow a similar pattern to those for operations covered by item B3-4310 as a whole.

8. **ANTI-FRAUD MEASURES**

Not applicable

SECTION 2: ADMINISTRATIVE EXPENDITURE (PART A OF THE BUDGET)

1. STAFF NEEDED TO CARRY OUT THE OPERATION

From 1996, one full time A grade official, one full time B grade official and one full time C grade official.

The staff are to be found either through internal redeployment, or through other means in accordance with the Commission's decision on distribution of resources.

2. EXPENDITURE ON STAFF AND ADMINISTRATION

2.1. Expenditure on staff

The costs in respect of the staff requested in section 1 are estimated at ECU 240 000 per year from 1996. This will be covered by the appropriations allocated to part A of section III of the general budget.

2.2. Expenditure on administration

This covers the running costs of the Adaptation Committee and the costs incurred in connection with consultation of the Advisory Committee on Safety, Hygiene and Health Protection at Work.

The cost of inviting a government expert to take part in consultation meetings has been estimated at ECU 460, and for a non-government expert at ECU 630 (for one day). Planned expenditure is progressive and spread over several years. The figures given below are overall estimates.

The estimate in respect of item A 2510 (Adaptation Committee) is based on two meetings of group 3 experts (government experts) in 1997, followed by three meetings per year as from 1998.

The estimate in respect of item A 2531 (Advisory Committee) is based on two meetings per year of an ad hoc group composed of 12 members, including 4 government experts. Meetings are scheduled to take place from 1998.

Item A 2510

	<u>CA (ECU)</u>	<u>PA (ECU)</u>
1996	---	---
1997	22 000	22 000
1998	33 000	33 000
1999	33 000	33 000
2000	33 000	33 000
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	121 000	121 000

Item A 2531

	<u>CA (ECU)</u>	<u>PA (ECU)</u>
1996	---	---
1997	---	---
1998	14 000	14 000
1999	14 000	14 000
2000	14 000	14 000
	-----	-----
	42 000	42 000

SECTION 3: COST-EFFECTIVENESS ANALYSIS

1. OBJECTIVES AND CONSISTENCY WITH FINANCIAL PROGRAMMING

1.1 Specific objective of the proposed operation

Implementation of the proposal for a Directive.

1.2 Is the operation incorporated in the financial programming of the DG for the years concerned?

Yes.

1.3 Broader objective defined in the DG's financial programming

Safety and health at the workplace.

2. GROUNDS FOR THE OPERATION

a) Cost

Similar to that of comparable operations in connection with other proposals for directives.

b) **Spin-off effects**

A considerable spin-off effect of the proposal will be improved safety and health of workers using work equipment, due to both equipment being intrinsically safer and activities being organised better.

c) **Multiplier effects**

For the same reasons described under b), the action could have a multiplier effect in the private sector in the Member States.

3. **MONITORING AND EVALUATION OF THE OPERATION**

Pursuant to Article 10 of Directive 89/655/EEC, Member States shall report to the Commission every five years on the practical implementation of the provisions of the Directive, indicating the points of view of employers and workers.

The Commission shall inform the European Parliament, the Council, the Economic and Social Committee and the Advisory Committee on Safety, Hygiene and Health Protection at Work. It shall submit periodically to the European Parliament, the Council and the Economic and Social Committee a report on the implementation of the Directive and on this proposal.

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