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ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on the Transport of Dangerous Goods

Joint Meeting of the RID Committee of Experts and the
Working Party on the Transport of Dangerous Goods

Bern, 26-30 March 2007
Item 6 of the provisional agenda

COMMENTS ON DOCUMENT TRANS/WP.15/AC.1/2007/18

Transmitted by the Government of Sweden

Executive summary:	Sweden would like to point out by this paper that there is a major change proposed in the proposal TRANS/WP.15/AC.1/2007/18 from the working group on the revision of Chapter 6.2 compared with the existing requirements set out by the TPE directive, 99/36/EC. This change concerns the type of bodies that are accepted by the regulations. In the TPE directive only notified bodies (Type A) and approved bodies (Type B) are to be found. The European Commission's Council removed the type C body in year 1998 when developing the TPE directive. Please see paragraph III (c) in the attached document. Sweden are also of the opinion that clarification is needed on how the procedure described by the term IS(1) can be in line with the requirement of the TPE directive. If these proposals are adopted it will lead to a conflict with the requirements set out by the TPE directive.
Action to be taken:	Amend the proposed text in 6.2.2.9 and 6.2.3.6 by deleting the acceptance of type C bodies according to EN ISO/IEC 17020:2004. Delete the procedure described as IS(1) in 6.2.3.6 and the references in the table. Subsequently the present IS(2) in the proposal could be named as IS in 6.2.2.9 and 6.2.3.6.
Related documents:	TRANS/WP.15/AC.1/2007/18 (EIGA)

Introduction

Sweden would like to point out by this paper that there is a major change proposed in the proposal TRANS/WP.15/AC.1/2007/18 from the working group on the revision of Chapter 6.2 compared with the existing requirements set out by the TPE directive, 99/36/EC. This change concerns the type of bodies that are accepted by the regulations.

Sweden is also aware of the coming revision of the TPE directive and that problems can be solved during the work with the revision of TPE directive.

Background

In the TPE directive only notified bodies (Type A) and approved bodies (Type B) are to be found. The European Commission's Council removed the type C body in year 1998 when developing the TPE directive. Please see paragraph III (c) in the attached document, (only page 1 and 39 are attached).

The working group has proposed to accept the bodies described as type C according to EN ISO/IEC 17020:2004, see 6.2.2.9 and 6.2.3.6 in the proposed text.

Sweden does find it excellent that the working group have proposed a mandatory requirement that the bodies shall be accredited according to the standard EN ISO/IEC 17020:2004 but we are of the opinion that only type A and type B bodies should be accepted.

Sweden is also of the opinion that clarification is needed on how the procedure described by the term IS(1) can be in line with the requirements of the present TPE directive, where the manufacturer only has to be ISO 9001:2000 certified.

We see a conflict here with both the present TPE directive and the proposed mandatory requirement in 1.8.6.4 that the bodies shall be accredited according to the standard EN ISO/IEC 17020:2004.

When the TPE directive entered into force and Sweden implemented the directive into national legislation, the requirements on the existing inspection bodies were also changed. Only type A and type B bodies were accepted.

Proposal

1. Amend the proposed text in 6.2.2.9 and 6.2.3.6 by deleting the acceptance of type C bodies according to EN ISO/IEC 17020:2004.

2. Delete the procedure described as IS(1) in 6.2.3.6 and the references in the table. Subsequently the present IS(2) in the proposal could be named as IS in 6.2.2.9 and 6.2.3.6.

22.1.1999 EN Official Journal of the European Communities C 18/1

I

(Information)

COUNCIL

COMMON POSITION (EC) No 1/1999

adopted by the Council on 30 November 1998

with a view to adopting Council Directive 1999/. . ./EC of . . . on transportable pressure equipment

(1999/C 18/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75(1)(c) thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the Economic and Social Committee [2],

Acting in accordance with the procedure laid down in Article 189c of the Treaty [3],

(1) Whereas within the framework of the common transport policy further measures must be adopted to ensure transport safety;

(2) Whereas each Member State currently requires all transportable equipment to be used on its territory to undergo certification and inspection, including periodic inspections, by its designated bodies; whereas this practice, requiring multiple approvals if equipment is to be used in more than one State in the course of a transport operation, constitutes an obstacle to the provision of transport services within the Community; whereas action by the Community to harmonise approval procedures is justified in order to facilitate the use of transportable pressure equipment on the territory of another Member State in the context of a transport operation;

(3) Whereas measures should be adopted for the progressive establishment of a single market in transport and, in particular, for free movement of transportable pressure equipment;

(4) Whereas action at Community level is the only possible way of achieving such harmonisation, since Member States acting independently or through international agreements cannot establish the same degree of harmonisation in the approvals for such equipment; whereas, currently, recognition of approvals given in different Member States is not satisfactory because of the element of discretion;

(5) Whereas a Council Directive is the appropriate legal instrument to enhance the safety of this

[1] OJ C 95, 24.3.1997, p. 2, and OJ C 186, 16.6.1998, p. 11.
[2] OJ C 296, 29.9.1997, p. 6.
[3] Opinion of the European Parliament of 19 February 1998 (OJ C 80, 16.3.1998, p. 217), Council common position of 30 November 1998 and Decision of the European Parliament of . . . (not yet published in the Official Journal).

Thus:

— new TPE, complying with the relevant provisions of Directives 94/55/EC and 96/49/EC and bearing the new mark given in Annex VII, will be permitted to move freely throughout Community territory,

— existing TPE complying with the relevant provisions of Directives 94/55/EC and 96/49/EC and on which the mark given in Annex VII has been affixed after passing the periodic inspection, will be permitted to be used throughout the Community.

III. ANALYSIS OF THE COUNCIL'S COMMON POSITION

The Council's common position is essentially the same as the Commission proposal. However, it does contain a number of amendments and the main ones are outlined below.

(a) Reassessment of conformity for existing TPE

The draft Directive common position provides for the introduction of a procedure for subsequent assessment, at the request of the owner or holder, of the conformity of TPE already manufactured and put into service before the implementation date of this Directive with the relevant provisions of the Annexes to Directives 94/55/EC and 96/49/EC. The aim of this procedure is to make the Directive valid for such equipment (Articles 2 and 5 and Annex IV, Part II).

A specific provision has been included for the reassessment of valves and other accessories used for transport (Annex IV, Part II, point 2).

If the results of the reassessment are satisfactory, the TPE must undergo the periodic inspection (Annex IV, Part II, point 4).

(b) TPE outside the scope of the Directive

Unlike the Commission proposal, the common position specifically excludes aerosol dispensers and gas cylinders for breathing appliances from the scope of the Directive (Article 2, definition of TPE and corresponding recital 9).

Equipment used exclusively for transport with third countries (Article 1(4)) is also excluded from the scope of the common position.

(c) Notified bodies and approved bodies

— *Structure*

The common position does away with the type C bodies provided for in the Commission proposal and establishes two types of body, a notified body (corresponding to type A) and an approved body (corresponding to type B).

The notified body is independent of the organisation which it inspects and for which it monitors and provides 'third party' inspection services (Articles 2, 3 and 8; Annexes I and II).

An approved body, on the other hand, is a separate entity and must be identifiable within the organisation which it inspects (Articles 2, 4 and 9; Annexes I and III).

Member States are, however, obliged to ensure that both types of body are sufficiently independent,