



## **MACHINERY DIRECTIVE ORGALIME LETTER TO EU MEMBER STATES -16 MAY 2002**

The existing Machinery Directive (98/37/EC) is the core legislation regulating the mechanical engineering industry represented by Orgalime. This sector, which enjoys a strong home base in the internal market, is one of the most dynamic competitive sectors of our industry with an output of some 372 billion euros and exports outside the EC of 113 billion euros per year.

In Orgalime's opinion the Machinery Directive represents an excellent example of successful EC harmonisation: it has both provided for a high level of safety while ensuring free trade in one of the EU's core industries which supplies all other manufacturing sectors.

Since the beginning of discussions on a possible revision of this directive, launched by the Commission soon after adoption of the directive in the wake of the Molitor Report, our industry has repeatedly expressed its reservations on the need for a review of the existing directive. Today, as we follow the progress of the Commission proposal in the European Parliament and Council working group, we are ever more concerned that legislation which has contributed extensively to the competitiveness of our industry may, in the end, be revised in a way that damages the competitiveness of manufacturers. For the reasons specified hereafter we suggest that the present revision of the Machinery Directive may be premature and should be reconsidered.

### ***Commission's initiative to revise the directive***

The first Machinery directive (89/392/EEC) started to enter into force on 1 January 1995 for some equipment and for some others only in 1997,. Therefore in practice it was effectively transposed into national legislation throughout the EU only in 1997. This is only some five years ago, a very short time to review such a major piece of legislation: manufacturers have only recently become familiar with it and to the best of our knowledge there are no accidents arising from shortcomings in the directive which might justify a change. What is essential for manufacturers is a stable legislative framework that allows companies to plan and develop their design and production, without having to adapt to frequent changes in the rules that they must apply.

### ***Impact of the proposed changes***

If we can support the conclusions of the Molitor report, which points out the need for simplification of the legislation and areas for clarification, we are not convinced that these necessarily call for a major overhaul of the legislation, particularly so soon after its entering into force.

The proposal of the Commission has indeed brought some clarifications to areas such as the scope of the directive. In particular, our electrotechnical industry appreciates that the present Commission proposal sets a clearer borderline between the Machinery Directive and the legislation covering low and high voltage equipment following the present understanding and practice in member states, where low and high voltage equipment is excluded from the scope of the Machinery Directive. We urge the Commission and member states to confirm this practice. This would eliminate an area of legal uncertainty

However, in other areas the proposal does not seem to be in line with the main objective of the Molitor Report. On the contrary, Orgalime believes that the new draft even introduces significant areas of confusion and additional bureaucracy, e.g. the concept of machinery and associated definitions, the conformity assessment procedures, the additional requirements for the declarations by the manufacturers, a substantial redrafting of Annex I, etc. We have commented on these in detail in our positions dated May and August 2001.

The substantial changes proposed for Annex I will cause manufacturers and standardisers a serious problem. For many years our industry has invested considerable resources in the drafting of the many hundreds of standards that support the existing directive. Most of these have been adopted, a number are still not completed. Besides being adopted as "EN", many of these standards have also recently been accepted as ISO standards, thereby reinforcing the competitive position of the EU's mechanical engineering industry on world markets. Changes to Annex I will therefore not only cause confusion to manufacturers, but will also mean the setting up of a new standardisation programme at huge costs for industry and other stakeholders in the standardisation process. This in our opinion is completely unjustified.

#### ***Parallel revision of the New Approach***

Another important aspect to take into account is that the Machinery Directive represents one of the most successful examples of the application of the so-called New Approach in the internal market legislation. The European engineering industry considers the New Approach an excellent regulatory tool that has provided a boost to the competitiveness of the European industry and supported the development of the European Single Market.

At the present time, the Commission has just launched a review of the New Approach, with a view to considering possible areas of improvement. Although this review will cover horizontal aspects of the New Approach, such as the appointment and tasks of notified bodies, the role of the CE marking and market surveillance, any horizontal legislation in this area will certainly affect the specific directives drafted under the New Approach framework.

Our industry therefore believes that the outcome of this review process should be taken into account before proceeding with the revision of vertical legislation such as the Machinery Directive.

#### ***Industry Conclusions : suspend the decision process***

Orgalime believes that any revision of the Machinery Directive should provide clear benefits for all stakeholders, whether public authorities, users or manufacturers and that it should, as specified in the Molitor Report, simplify the implementation of the legislation by all concerned.

Orgalime seriously doubts that the revision process in its present form will achieve these objectives.

We therefore firmly request that Member States should carefully reconsider whether to proceed at present with the revision of the existing legislation, at least until such time as sufficient experience has been gained of the present directive, and work on the review of the New Approach has been completed.

Orgalime hopes that Member States will take our comments into consideration and, together with its member federations, will be very pleased to discuss these views further with the competent authorities.