

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.09.2000
COM(2000) 563 final

Proposal for a

COUNCIL DECISION

determining the Community position for a decision of the Joint Committee on amending the Sectoral Annexes on Telecommunications Terminal Equipment, Information Technology Equipment and Radio Transmitters, on Electromagnetic Compatibility, on electrical Safety, on Recreational Craft and on Medical Devices of the Agreement on Mutual Recognition between the European Community and Canada

(presented by the Commission)

EXPLANATORY MEMORANDUM

I. Background

1. The Agreement on Mutual Recognition between the European Community (EC) and Canada was approved by the Council with its Decision of 20 July 1998[1] and entered into force on 1 November 1998.

2. According to Article XV(2) of the Agreement, there is a general obligation on the Parties to bring within the scope of the Agreement new or additional conformity assessment procedures affecting a sector covered by a Sectoral Annex. The Community adopted on 9 March 1999 a new directive 99/5/EC on radio and telecommunication terminal equipment, which will replace the existing directive from 8 April 2000. The Sectoral Annex on Telecommunications Terminal Equipment, Information Technology Equipment and Radio Transmitters (TTE Sectoral Annex) therefore needs to be amended to take into account the new legislative situation in the Community.

3. The Sectoral Annexes of the Agreement also foresee a transitional period of 18 months for the purpose of carrying out confidence building activities. These need to be extended from 1st April 2000 up to 31/01/2001 (an additional period of nine months) to ensure the confidence-building activities are carried out thoroughly and completely.

II. Amendments to the Sectoral Annex on Telecommunications Terminal Equipment, Information Technology Equipment and Radio Transmitters (TTE)

4. Directive 99/5/EC on radio equipment and telecommunications terminal equipment[2] was adopted on 9 March 1999 and will repeal directive 98/13/EC[3] as of 8 April 2000. The existing TTE Sectoral Annex makes a reference to directive 98/13/EC and it must therefore be up-dated to take into account the new legal situation in the Community. More in detail, the necessary amendments need to reflect the following:

   - Changed scope between directive 98/13/EC and 99/5/EC.

   - Changed conformity assessment procedures between the directives.

   - Changed relation to directive 73/23/EEC on low voltage equipment and directive 89/336/EEC on electromagnetic compatibility.

5. With regard to the scope, the existing coverage of the TTE Sectoral Annex corresponds to that of directive 99/5/EC. Consultations with the Canadian authorities have resulted in agreement on the modifications that need to made to the TTE Sectoral Annex.

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1 Council Decision of 20 July 1998 on the conclusion of an Agreement on Mutual Recognition between the European Community and Canada (OJ L 280, 16.10.1998, p. 1).

2 Directive 99/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ L 91, 7.4.1999, p. 10).

3 Directive 98/13/EC of the European Parliament and the Council of 12 February 1998 relating to telecommunications terminal equipment and satellite earth station equipment, including the mutual recognition thereof (OJ L 74, 12.3.1998, p. 1).

6. Concerning certain annexes of the Agreement, confidence-building activities foreseen for a transitional period have not been completed and this period will require to be extended by nine months from 1st April 2000 up to 31/01/2001.

III. Decision making procedures

Article XIX(2), second sentence, of the Agreement foresee that Sectoral Annexes may, through the Joint Committee, be amended in writing by the Parties. Furthermore, Articles XI.3(a) and IV.3 lay down that the Joint Committee is responsible for amending Sectoral Annexes. A decision of the Joint Committee, set up according to Article XI.3(a) of the Agreement, is therefore required.

For such a decision by the Joint Committee the Community position is, according to Article 3(3) of Council Decision 98/566/EC, determined by the Council, acting by qualified majority on a proposal from the Commission.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Council Decision of 20 July 1998 on the conclusion of an Agreement on Mutual Recognition between the European Community and Canada[4] and in particular Article 3(3) of that Decision,

Having regard to the proposal from the Commission[5],

Whereas the Sectoral Annex on Telecommunications Terminal Equipment, Information Technology Equipment and Radio Transmitters needs to be amended to bring within its scope new Community legislation in the form of Directive 99/5/EC on radio and telecommunications terminal equipment,

HAS DECIDED AS FOLLOWS:

Article 1

The position to be adopted by the European Community for a decision by the Joint Committee, set up under Article XI of the Agreement on Mutual Recognition between the European Community and Canada, on amending the Sectoral Annex on Telecommunications Terminal Equipment, Information Technology Equipment and Radio Transmitters shall be based on the amendments specified in annex I to this Decision. Minor modifications to the amendments specified in the annex may be accepted without further decision by the Council.

Article 2

The position to be adopted by the European Community for a decision by the Joint Committee set up under Article XI of the Agreement on Mutual Recognition between the European Community and Canada on amending the Sectoral Annexes to extend the transitional periods shall be based on the amendments specified in Annex 2 to this Decision.

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4 OJ L 280, 16.10.1998, p. 1

5 OJ L , p.

Minor modifications to the amendments specified in the annex may be accepted without further decision by the Council.

Article 3

The Council authorises the Commission to sign on behalf of the Community the decision of the Joint Committee that adopts the amendments mentioned in Article 1.

Article 4

The Decision of the Joint Committee shall be published in the *Official Journal of the European Communities* once it has been adopted.

Done in Brussels,

For the Council
The *President*

ANNEX 1

Amendments to the Sectoral Annex on Telecommunications Terminal Equipment, Information Technology Equipment and Radio Transmitters

1. In Article 4 (1), the second indent is modified as follows:

   "For electromagnetic compatibility (EMC) the recognition of each other's certificates of compliance, suppliers' declaration and Technical Construction File, as required. The detailed provisions are described in this Annex or the sectoral annex on EMC; where a manufacturer chooses not to use the procedure of EC Directive 99/5/EC for assessing conformity with EMC requirements, the relevant provisions of the sectoral annexes on EMC shall apply."

2. In Article 4 (1), the third subparagraph, is modified as follows:

   "For electrical safety / low voltage the acceptance of testing, certification of compliance and supplier's declaration of conformity of the covered products to the electrical safety requirements of the other Party. The detailed provisions are described in this Annex or the sectoral annex on electrical safety; where a manufacturer chooses not to use the procedure of EC Directive 99/5/EC for assessing conformity with electrical safety requirements, the relevant provisions of the sectoral annexes on electrical safety shall apply."

3. In Article 4 (1), the following subparagraphs are added:

   "- prescription of radio tests to be performed pursuant to annexes III and IV of Directive 99/5/EC

   - issuing of an opinion on a technical file pursuant to annex V of Directive 99/5/EC."

4. Article 6 (1) is deleted and replaced with the following:

   "There will be a transitional period of 27 months before the provisions of this Annex, notably Section 4, become fully operational on 31/01/2001."

5. In Attachment 1, "European Community" column, the whole text is replaced with the following:

   "Directive 99/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity

   Council Directive 73/23/EEC as amended by Council Directive 93/68/EC

   Council Directive 89/336/EEC as amended by Council Directive 92/31/EEC and 93/68/EC.

6. In Attachment 2, “European Community” column, the whole text is replaced with the following:

“In specific, but not exclusive terms, the following interfaces and services within the scope of Directive 99/5/EC are included:

- all wired telecommunications terminal equipment

- all radio equipment, with the exception of:

  - a medical device within the meaning of Article 1 of Council Directive 93/42/EEC of 14 June 1993;

  - an active implantable medical device within the meaning of Article 1 of Council Directive 90/385/EEC of 20 June 1990;

  - a component or separate technical unit of a vehicle within the meaning of Council Directive 72/245/EEC of 20 June 1972 or Council Directive 92/61/EEC of 30 June 1992;

  - radio equipment used by radio amateurs within Article 1, definition 53, of the ITU radio regulations unless the equipment is available commercially;

    kits of components to be assembled by radio amateurs and commercial equipment modified by and for the use of radio amateurs are not regarded as commercially available equipment;

  - equipment within the scope of Directive 96/98/EC (The Marine Directive);

  - cable and wiring;

  - receive only radio equipment intended to be used solely for the reception of sound and TV Broadcasting Services;

  - products, appliances and components within the meaning of Article 2 of Council Regulation (EEC) 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation;

  - Air-traffic-management equipment and systems within the meaning of Article 1 of Council Directive 93/65/EEC of 19 July 1993 on the definition and use of compatible technical specifications for the procurement of air-traffic-management equipment and systems;

  - apparatus exclusively used for activities concerning public security, defence, State security (including the economic well-being of the State when the activities relate to State security matters) and the activities of the State in areas of criminal law.

Radio equipment is defined as a product, or relevant component thereof, capable of communication by means of the emission and/or reception of radio waves utilising the spectrum allocated to terrestrial/space radio communication; and radio waves means electromagnetic waves of frequencies from 9 kHz to 3 000 GHz, propagated in space without artificial guide.

ANNEX 2

Amendments to the Sectoral Annex on Electromagnetic Compatibility:

Article 5 (1) is deleted and replaced with the following: “The mutual recognition provisions of this Annex, notably Section 3, will take effect 27 months following the entry into force of this Annex, that is on 31/01/2001”.

Amendment to the Sectoral Annex on Electrical Safety:

Article 4.1 is deleted and replaced by the following: “The transitional arrangements shall operate for a term of 27 months from the time this MRA enters into force, that is up to 31/01/2001”.

Amendment to the Annex on Recreational Craft:

Section V, first sentence, shall be deleted and replaced with the following: “There will be a transitional period of 27 months up to 31/01/2001, prior to the operation of this Annex”.

Amendment to the Annex on Medical Devices:

Article 6.1 shall be deleted and replaced with the following: “The confidence-building period will commence upon the signing of the MRA and is expected to be completed within 27 months of entry into force of the agreement, that is by 31/01/2001”.