



Brussels, 04 March 2004  
MS/TJ/SB/cd/dm

**Mr. Paraig Hennessy**  
**Chair of the European Council Working Group**  
**for Machinery directive 98/37/EC**  
Enterprise Policy and Standards Unit  
Department of Enterprise, Trade and Employment  
Kildare Street  
IRL - Dublin 2

**Mr. Erkki Liikanen**  
**European Commissioner**  
**DG Enterprise/DG INFSO**  
Rue de la Science, 15  
B – 1040 Brussels

**Re: Proceeding with the revision of the Machinery Directive 98/37/EC**

Dear Commissioner Liikanen,  
Dear Mr Hennessy,

ETUC attaches great importance to the identification of issues affecting the health and safety of workers and to changes in management practices and improvements in technologies. In particular, ETUC is well aware of the still high rates of accidents and injuries caused by machinery in many European countries. The 1999 European Union labour force survey identifies craftsmen, machine operators, and installation and assembly workers as particularly high-risk groups. These groups of workers use the large majority of work equipment covered by the Machinery Directive.

On January 2001, the Commission transmitted a proposal to the Council and the European Parliament [COM(2000) 899 - 2001/0004 (COD)] for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on machinery and amending Directive 95/16/EC.

In line with the conclusions of the 1994 Molitor report the objective of the Commission proposal was to provide a better definition of various concepts, to clarify certain aspects and to better ensure its uniform application. To this end, the explanations of the conformity assessment and market surveillance procedures were improved, avoiding divergent interpretations of these procedures.

After 4 years of discussions under 6 presidencies (Sweden, Belgium, Spain, Denmark, Greece, Italy), an advanced text is now under discussion under the Irish Presidency. The European Trade Union Confederation (ETUC) – through its health and safety Trade Union Technical Bureau (TUTB) – is following with much attention the revision process of the machinery directive. The ETUC has been monitoring the machinery directive since its conception, to determine what issues those involved in regulation face and assess how the law is standing up to changes in technology and market trends. Over the years evidence of gaps and failings in the system has been collected, and therefore ETUC calls for a revision of the directive. We are now three years into the revision process that has involved hundreds of experts from all over Europe: given the advanced status of the latest drafts, the ETUC is of the opinion that the revision should be finalized as soon as possible. This revised directive should

EUROPEAN TRADE UNION CONFEDERATION  
CONFEDERATION EUROPEENNE DES SYNDICATS

John Monks, General Secretary

Boulevard du Roi Albert II, 5 • B - 1210 Bruxelles • Tel: +32 2 224 04 11  
Fax: +32 2 224 04 54 / 55 • e-mail: [etuc@etuc.org](mailto:etuc@etuc.org) • [www.etuc.org](http://www.etuc.org)



provide an appropriate from the free movement of machinery in an enlarged Europe and provide a high standard of health and safety protection.

The ETUC founds the need to revise the machinery directive on three main elements, that are part of the trade union strategy to put the new machinery directive principles to work for the health and safety of workers.

Point 1. After ten years of implementation of the machinery directive, the -TUTB has collected evidence that essential aspects of equipment design are often underestimated or even ignored by manufacturers, who are often unaware of the real conditions in which equipment is used. Failure to incorporate information derived from the daily experience of machinery operators into machinery design often means that in design modifications have to be made at later stages, adding to the costs for both users and manufacturers.

Point 2. There is a growing awareness of the importance of final users' experience among experts responsible for framing standards to support the application of the Machinery Directive, which also provides a solid basis for undertaking the five-year revision process. The fact is that standards development has been slow for a great number of machines: experience in formulating technical provisions is lacking and prevention is still in its infancy. In these areas, there is a risk that design errors will be made if the real conditions of use are not taken into account.

Point 3. User feedback can assist manufacturers in integrating ergonomic principles into machinery design. The TUTB-SALTSA1 European research project on Participatory Design of Machines has also illustrated the need to improve designers' recognition of ergonomics as one of the pillars underpinning the safety and health of machinery operators.

These three points – supporting the ETUC's objective of formalizing the collection of feedback from machinery users – provide the background for the following demands for an improved legislative text:

- Make the Directive more readily understandable: diverging interpretations of its terms and areas of uncertainty mean that both the Directive's scope and definitions ("machinery" and "safety components" are cases in point) require clarification. Likewise, the precise legal effect of publishing the reference to European harmonized standards in the Official Journal, and the linkage between them and the Directive's essential requirements, needs to be made clear.
- Clarify the duties and responsibilities of those involved in the system: as an example, the obligations, and liability for design flaws, of sub-assembly manufacturers must be made clear. There also needs to be more openness in the way Member States notify conformity assessment bodies.

---

<sup>1</sup> The Joint Programme for Working Life Research in a European Perspective is an undertaking by the Swedish Trade Unions LO, SACO and TCO and the National Institute for Working Life.



- Revise the machinery safeguard clause: by introducing a simpler, more effective procedure to ensure a more uniform approach throughout the directives, and shorten the process.
- Revise the Annex IV list: by reference to advances in safety technology. For this, an EU-wide study needs to be done on new machinery that is intrinsically unsafe to use.
- Establish effective European coordination of notified bodies: to better reconcile their public interest goals with being bound by market rules. The TUTB argues that a whole new dimension might be added to coordination by making it compulsory for notified bodies to take part in the coordination activities which have been in place since 1994.
- Improve coordination of national market surveillance practices: national public authorities have a real role to play in market surveillance, but they must join up their activities and strategies effectively. They should have an explicit obligation to do so. We believe that the national authorities should have a duty to collect the data concerned and pass it on to the other States.
- Improve the safety aspects of European harmonized standards: the ETUC argues that workers should be a valued source of information for standards developers. The Directive provides for users of machinery to be involved in standards development, but in reality few workers' representatives have any input into the process. The ETUC believes that giving workers' representatives compulsory seats on CEN technical committees would be the right thing to do, and that Member States should provide financial assistance to enable them to participate in a real sense. Standards developers should also have access to national data on work accidents involving machinery and partly-completed machinery, occupational diseases, and market surveillance information. A database to hold this information would be particularly useful; it could be set up and managed in partnership with the different Member States either by the Commission, an occupational safety body, or even by CEN. It would give standards committee members ready access to knowledge on the health and safety issues raised by work equipment as used in workplaces.
- Improve the flow of information on machinery between manufacturers and users: our suggestion is that more formally-organized communication should be established between them. Before the act of purchase, prospective machinery buyers should have more information by being supplied with the manufacturer's risk assessment. After purchase, users should also be better informed. Procedures should be put in place to ensure that European users have access to full health and safety details.

The ETUC welcomes the progress achieved so far and is of the opinion that a number of modifications introduced in the latest drafts might result in better equipment design and safer working conditions: provisions concerning "quasi-machinery" have been clarified; conditions of use which can reasonably be foreseen have been introduced; the concept of risk assessment has been clarified, as well as the role of harmonised



standards as regards presumption of conformity; conformity assessment procedures have been better described; human error has been introduced in control system design; and cooperation between member states has been stressed so as to achieve an uniform application of the directive.

**On this background, the ETUC calls upon the Irish presidency and the European Commission to take advantage of these positive achievements and finalize the revision of the machinery directive.**

Yours sincerely,

John Monks  
General Secretary