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From:	General Secretariat of the Council
To:	Delegations
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Subject:	Proposal for a Regulation of the European Parliament and of the Council on personal protective equipment - Analysis of the final compromise text with a view to agreement

Delegations find below the text as agreed during the trilogue with the representatives of the European Parliament and the European Commission on 22 September 2015. The Presidency considers that the substance of the text entirely reflects the mandate given by Coreper on 11 September 2015.

The Committee is invited to endorse this text and to mandate the Presidency to inform the European Parliament that, should Parliament adopt the text of the Proposal in the exact form as set out in the Annex - subject to legal-linguistic revision- at a forthcoming plenary meeting, the Council would adopt the proposed Regulation thus amended.

REGULATION (UE) .../...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

on personal protective equipment *and repealing Council Directive 89/686/EEC*

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Directive 89/686/EEC¹ was adopted in the context of establishing the internal market in order to harmonise health and safety requirements for personal protective equipment (PPE) in all Member States and to remove obstacles to trade in PPE between Member States.
- (2) Directive 89/686/EEC is based on the New Approach principles, as set out in the Council Resolution on a new approach to technical harmonisation and standards². Thus, it sets only the essential safety requirements applying to PPE, whereas technical details are adopted by the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC) in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council³. Conformity with the harmonised standards so set, the reference number of which is published in the *Official Journal of the European Union*, provides a presumption of conformity with the requirements of Directive 89/686/EEC. Experience has shown that those basic principles have worked well in this sector and should be maintained and even further promoted.

¹ Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment (OJ L 399, 30.12.1989, p. 18).

² Council Resolution of 7 May 1985 on a new approach to technical harmonisation and standards (OJ C 136, 4.6.1985, p. 1).

³ Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

- (3) However, experience with its application has shown inadequacies and inconsistencies in the product coverage and conformity assessment procedures. In order to take account of this experience and to provide clarification in relation to the framework within which products covered by this Regulation may be marketed, certain aspects of Directive 89/686/EEC should be revised and enhanced.
- (4) ***This Regulation covers PPE which is new to the Union market when it is placed on the market; that is to say it is either new PPE made by a manufacturer established in the Union or products, whether new or second-hand, imported from a third country.***
- (5) ***This Regulation should apply to all forms of supply, including distance selling.***
- (6) Since the scope, the essential health and safety requirements and conformity assessment procedures are to be identical in all the Member States there is almost no flexibility in transposing Directives based on the New Approach principles into national law. Directive 89/686/EEC should therefore be replaced by a Regulation, which is the appropriate legal instrument for imposing clear and detailed rules which do not give room for divergent transposition by Member States.

- (7) Regulation (EC) No 765/2008 of the European Parliament and of the Council⁴ lays down *rules* on the accreditation of conformity assessment bodies, *provides a framework for the market surveillance of products and for controls on products from third countries, and lays down the general principles* of the CE marking.
- (8) Decision No 768/2008/EC of the European Parliament and of the Council⁵ *lays down* common principles and reference provisions *intended to apply across sectoral* legislation
┆. In order to ensure consistency with other sectoral product legislation, it is appropriate to align certain provisions of this Regulation to that Decision, in so far as sectoral specificities do not require a different solution. Therefore, certain definitions, the general obligations of economic operators, the presumption of conformity, EU declaration of conformity, rules on CE marking, requirements for conformity assessment bodies and notification procedures, the conformity assessment procedures and the provisions concerning procedures to deal with products presenting a risk should be aligned to that Decision.
- (9) Regulation (EU) No 1025/2012 provides for a procedure for objections to harmonised standards where those standards do not entirely satisfy the requirements of this Regulation.

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⁴ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products (OJ L 218, 13.8.2008, p. 30).

⁵ Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC(OJ L 218, 13.8.2008, p. 82).

- (10) Some products on the market that provide a protective function to the user are excluded from the scope of Directive 89/686/EEC. In order to ensure as high level of protection for the user of those products as for the PPE covered by Directive 89/686/EEC, the scope of this Regulation should include PPE for private use against ~~heat~~ in line with similar PPE for professional use which is already covered by Directive 89/686/EEC. Artisanal *decorative* products **do not claim to fulfil** a protective function, are **by definition** not personal protective equipment **and** are therefore not concerned by this inclusion. ***Clothing intended for private use with reflective or fluorescent elements which are included for reasons of design or decoration are not personal protective equipment and therefore not covered by this Regulation. In the case of products intended for private use to protect against atmospheric conditions that are not of an extreme nature or to protect against damp and water, including but not limited to seasonal clothing, umbrellas and dishwashing gloves, these should be outside of the scope of this Regulation.*** It is also appropriate to clarify the exclusion list set out in Annex I to Directive 89/686/EEC by adding a reference to products covered by other legislation and therefore are excluded from the PPE Regulation.

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- (11) Economic operators should be responsible for the compliance of *the PPE*, in relation to their respective roles in the supply chain, so as to ensure a high level of protection of public interests, such as health and safety, and the protection of users, and to guarantee fair competition on the Union market.
- (12) All economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that ~~■~~ they make available on the market only *PPE* which *is in conformity* with this Regulation. This Regulation should provide a clear and proportionate distribution of obligations which correspond to the role of each *economic* operator in the supply and distribution chain.
- (13) *In order to facilitate communication between economic operators, market surveillance authorities and consumers, Member States should encourage economic operators to include a website address in addition to the postal address.*
- (14) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the complete conformity assessment procedure. Conformity assessment should therefore remain *solely* the obligation of the manufacturer ~~■~~.

- (15) It is necessary to ensure that PPE entering the Union market complies with this Regulation and, in particular, that appropriate *conformity* assessment procedures have been carried out by manufacturers. Provision should therefore be made for importers to make sure that the PPE they place on the market complies with the requirements of this Regulation and that they do not place on the market PPE which does not comply with such requirements or which present a risk. Provision should also be made for importers to make sure that the conformity assessment procedures have been carried out and that the CE marking and technical documentation drawn up by manufacturers are available for inspection by the *competent national* authorities.
- (16) Distributors make PPE available on the market after it has been placed on the market by the manufacturer or the importer and should act with due care to ensure that their handling of the PPE does not adversely affect the compliance of the PPE.
- (17) When placing PPE on the market, importers should indicate on the *PPE* their name, *registered trade name or registered trade mark* and the *postal* address at which they can be contacted. Exceptions should be provided for in cases where the size or nature of the PPE does not allow *it*. This includes cases where the importer would have to open the packaging to put his name and address on the *PPE*.

- (18) *Efforts should be made by economic operators to ensure that all relevant documentation, such as the user's instructions, whilst ensuring precise and comprehensible information, are easily understandable, take into account technological developments and changes to end-user behaviour, and are as up to date as possible. When PPE is made available on the market in packages containing multiple units, the instructions and information should accompany each smallest commercially available unit.*
- (19) Any economic operator that either places PPE on the market under its own name or trademark or modifies a product in such a way that compliance with the requirements of this Regulation may be affected should be considered to be the manufacturer and should assume the obligations of the manufacturer.
- (20) Distributors and importers, being close to the market place, should be involved in market surveillance tasks carried out by competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the PPE concerned.

- (21) Ensuring traceability of PPE throughout the *whole* supply chain helps to make market surveillance simpler and more efficient. An efficient traceability system facilitates the market surveillance authorities' task of tracing economic operators who made non-compliant *PPE* available on the market. ***When keeping the information required under this Regulation for the identification of other economic operators, economic operators should not be required to update such information in respect of other economic operators who have either supplied them with a PPE or to whom they have supplied a PPE.***
- (22) In order to simplify and adapt certain essential safety requirements of Directive 89/686/EEC to the current practice the requirement to label PPE protecting against harmful noise with a comfort index should be removed as experience has shown that it is not possible to measure and establish such an index. As regards mechanical vibrations, it is appropriate to remove the requirement not to exceed the limit values set by Union legislation on the exposure of workers to vibrations since the use of PPE alone is not able to achieve this objective. As regards PPE protecting against radiation, it is no longer necessary to require that the instructions for use supplied by the manufacturer indicate transmission curves, since the indication of the protection factor is more useful and is sufficient for the user.

- (23) It is necessary to clearly specify the relationship and scope of this Regulation with the entitlement of Member States to lay down requirements for the use of PPE at workplace, in particular pursuant to Council Directive 89/656/EEC⁶, in order to avoid any confusion and ambiguity and hence ensure the free movement of compliant PPE. ***Article 4 of that Directive obliges employers to provide PPE which complies with the relevant Union provisions on design and manufacture with respect to safety and health. Pursuant to that Article, manufacturers of PPE who provide that PPE to their employees must ensure that such PPE fulfils the requirements laid down in this Regulation.***

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- (24) ***Market surveillance authorities should have easy access to the declaration of conformity. In order to fulfil that requirement, manufacturers should ensure PPE is accompanied either by a full copy of the declaration of conformity or the internet address where the EU declaration of conformity can be accessed.***

⁶ Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (OJ L 393, 30.12.1989, p. 18).

- (25) *To ensure effective access to information for market surveillance purposes, in cases where PPE is covered by one or more Union harmonisation legal acts, the information required to identify all applicable Union acts should be available in a single EU declaration of conformity. In order to reduce the administrative burden on economic operators, it should be possible for that single EU declaration of conformity to be a dossier made up of relevant individual declarations of conformity.*
- (26) In order to increase the efficiency of market surveillance it is necessary to extend the obligation to draw up a complete technical documentation to all PPE.
- (27) In order to ensure that PPE is examined on the basis of the state of the art the limit of validity of the EU type-examination certificate should set to a maximum of five years. A process for reviewing the certificate should be provided for. A minimum content of the certificate should be required in order to facilitate the work of the market surveillance authorities.
- (28) *A simplified procedure should be applied for renewal of the EU-type examination certificate where the manufacturer has not modified the approved type and the harmonised standards or other technical specifications applied by the manufacturer have not been changed and continue to meet the essential health and safety requirements in the light of the state of the art. In such cases additional tests or examinations should be unnecessary and the administrative burden and related costs should be kept to a minimum.*

(29) The CE marking, indicating the conformity of a product, is the visible consequence of a whole process comprising conformity assessment in a broad sense. The general principles governing the CE marking are set out in Regulation (EC) No 765/2008. Rules governing the affixing of the CE marking on PPE should be laid down in this Regulation.

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(30) In order to ensure compliance with the essential **health and** safety requirements ***laid down in this Regulation***, it is necessary to lay down appropriate conformity assessment procedures to be followed by the manufacturer. Directive 89/686/EEC classifies PPE into three categories that are subject to different conformity assessment procedures. In order to ensure a consistently high level of safety for all PPE, the list of products subject to one of the conformity assessment procedures relating to the production phase should be enlarged. The conformity assessment procedures for each category of PPE should be set, as far as possible, on the basis of the conformity assessment modules laid down in Decision No 768/2008/EC.

(31) ***The conformity assessment procedures should be adapted to the specific conditions of the manufacture of PPE produced in series where each item is adapted to fit an individual user and of PPE produced as a single unit to fit an individual user.***

- (32) It is necessary to ensure a uniformly high level of performance of bodies performing conformity assessment of PPE throughout the Union, and all such bodies should perform their functions at the same level and under conditions of fair competition. Therefore obligatory requirements should be set for conformity assessment bodies wishing to be notified in order to provide conformity assessment services under this Regulation.
- (33) ***If a conformity assessment body demonstrates conformity with the criteria laid down in harmonised standards it should be presumed to comply with the corresponding requirements set out in this Regulation.***
- (34) In order to ensure a consistent level of quality in the performance of conformity assessment of PPE, it is also necessary to set requirements *for* notifying authorities and other bodies involved in the assessment, notification and monitoring of notified bodies **■**.
- (35) ***The system set out in this Regulation should be complemented by the accreditation system provided for in Regulation (EC) No 765/2008. Since accreditation is an essential means of verifying the competence of conformity assessment bodies, it should also be used for the purposes of notification.***

- (36) *Transparent accreditation as provided for in Regulation (EC) No 765/2008, ensuring the necessary level of confidence in conformity certificates, should be considered by the national public authorities throughout the Union as the preferred means of demonstrating the technical competence of conformity assessment bodies. However, national authorities may consider that they possess the appropriate means of carrying out that evaluation themselves. In such cases, in order to ensure the appropriate level of credibility of evaluations carried out by other national authorities, they should provide the Commission and the other Member States with the necessary documentary evidence demonstrating the compliance of the conformity assessment bodies evaluated with the relevant regulatory requirements.*
- (37) *Conformity assessment bodies frequently subcontract parts of their activities linked to the assessment of conformity or have recourse to a subsidiary. In order to safeguard the level of protection required for the PPE to be placed on the market, it is essential that conformity assessment subcontractors and subsidiaries fulfil the same requirements as notified bodies in relation to the performance of conformity assessment tasks. Therefore, it is important that the assessment of the competence and the performance of bodies to be notified and the monitoring of bodies already notified cover also activities carried out by subcontractors and subsidiaries.*

- (38) *Since notified bodies may offer their services throughout the Union, it is appropriate to give the other Member States and the Commission the opportunity to raise objections concerning a notified body. It is therefore important to provide for a period during which any doubts or concerns as to the competence of conformity assessment bodies can be clarified before they start operating as notified bodies.*
- (39) *In the interests of competitiveness, it is crucial that notified bodies apply the conformity assessment procedures without creating unnecessary burdens for economic operators. For the same reason, and to ensure equal treatment of economic operators, consistency in the technical application of the conformity assessment procedures needs to be ensured. That can best be achieved through appropriate coordination and cooperation between notified bodies.*
- (40) *Interested parties should have the right to appeal against the result of an assessment carried out by a notified body. For that reason, it is important to ensure that an appeal procedure against decisions taken by notified bodies is available.*

- (41) *Member States should take all appropriate measures to ensure that products covered by this Regulation may be placed on the market only if, when properly stored and used for their intended purpose, or under conditions of use which can be reasonably foreseen, they do not endanger the health or safety of persons. Products covered by this Regulation should be considered as non-compliant with the essential health and safety requirements laid down in this Regulation only under conditions of use which can be reasonably foreseen, that is when such use could result from lawful and readily predictable human behaviour.*
- (42) *In order to ensure legal certainty, it is necessary to clarify that rules on Union market surveillance and control of products entering the Union market provided for in Regulation (EC) No 765/2008 apply to products covered by this Regulation. This Regulation should not prevent Member States from choosing the competent authorities to carry out those tasks.*
- (43) *Directive 89/686/EC already provides for a safeguard procedure which is necessary to allow the possibility for contesting the conformity of a product. In order to increase transparency and to reduce processing time, it is necessary to improve the existing safeguard procedure, with a view to making it more efficient and drawing on the expertise available in Member States.*

- (44) *The existing system should be supplemented by a procedure under which interested parties are informed of measures intended to be taken with regard to PPE presenting a risk to the health or safety of persons. It should also allow market surveillance authorities, in cooperation with the relevant economic operators, to act at an earlier stage in respect of such PPE.*
- (45) *Where the Member States and the Commission agree as to the justification of a measure taken by a Member State, no further involvement of the Commission should be required, except where non-compliance can be attributed to shortcomings of a harmonised standard.*
- (46) In order to take into account *technical* progress *and* knowledge *or* new scientific evidence, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend the *categories of risks against which the PPE is intended to protect users*. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

- (47) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) 182/2011 of the European Parliament and of the Council⁷.
- (48) The advisory procedure should be used for the adoption of implementing acts requesting the notifying Member State to take the necessary corrective measures in respect of notified bodies that do not meet or no longer meet the requirements for their notification.
- (49) *The examination procedure should be used for the adoption of implementing acts with respect to compliant PPE which presents a risk to the health or safety of persons or to other aspects of public interest protection.*
- (50) *The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to compliant PPE which presents a risk to the health or safety of persons, imperative grounds of urgency so require.*

⁷ Regulation (EU) 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (51) *In line with established practice, the committee set up by this Regulation can play a useful role in examining matters concerning the application of this Regulation raised either by its chair or by a representative of a Member State in accordance with its rules of procedure.*
- (52) *When matters relating to this Regulation, other than its implementation or infringements, are being examined, i.e. in a Commission expert group, the European Parliament should in line with existing practice receive full information and documentation and, where appropriate, an invitation to attend such meetings.*
- (53) *The Commission should, by means of implementing acts and, given their special nature, acting without the application of Regulation (EU) No 182/2011, determine whether measures taken by Member States in respect of non-compliant products are justified or not.*
- (54) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are **enforced**. **The penalties provided for** should be effective, proportionate and dissuasive.

- (55) In order to allow manufacturers and other economic operators sufficient time to adapt to the requirements of this Regulation, it is necessary to provide for a sufficient transitional period after the entry into force of this Regulation during which PPE which complies with Directive 89/686/EEC may still be placed on the market.
- (56) Since the objective of this Regulation, namely to ensure *that PPE on the market fulfil the requirements providing for* a high level of protection of health and safety of users, whilst guaranteeing the functioning of the internal market, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (57) Directive 89/686/EEC has been amended several times. Since further substantial amendments are to be made and in order to ensure a uniform implementation throughout the Union, Directive 89/686/EEC should be repealed and replaced by a Regulation,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject Matter

This Regulation lays down requirements for the design and manufacture of personal protective equipment (PPE) *which is to be made available on the market* in order to ensure *protection of* the health and safety of users and rules on its free movement in the Union.

Article 2

Scope

1. This Regulation shall apply to personal protective equipment (PPE).
2. This Regulation shall not apply to PPE:
 - (a) specifically designed for use by the armed forces or *in* the maintenance of law and order;
 - (b) *designed* to be used for self-defence *with the exception of PPE intended for sporting activities*;

- (c) *designed* for private use to protect against:
 - (i) atmospheric conditions that are not of an extreme nature;
 - (ii) *damp and water during dishwashing*;
- (d) for *exclusive* use on seagoing vessels or aircraft that are subject to the relevant international treaties applicable in Member States;
- (e) for head, face or eye protection of users, subject to ~~■~~ Regulation 22 of the United Nations Economic Commission for Europe (UNECE) *on uniform provisions concerning the approval of protective helmets and of their visors for drivers and passengers of motor cycles and mopeds*.

Article 3
Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. 'Personal protective equipment' (PPE) means:
 - (a) equipment *designed and manufactured* to be worn or held by a person for protection against one or more risks for his or her health or safety ~~■~~;

- (b) interchangeable components for equipment referred to in point (a) which are essential for its protective function;
- (c) connexion systems for equipment referred to in point (a) that are not held or worn by a person, that are *designed* to connect that equipment to an external device or *to a reliable anchorage point, that are not designed* to be permanently fixed *and that do not require fastening works before use*;

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- 2. 'making available on the market' means any supply of PPE for distribution or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- 3. 'placing on the market' means the first making available of PPE on the Union market;
- 4. 'manufacturer' means any natural or legal person who ┆ manufactures PPE or has it designed or manufactured, and markets it under his name or trademark; ┆
- 5. 'authorised representative' means any natural or legal person established within the Union who has received a written mandate from a manufacturer to act on his behalf in relation to specified tasks;

6. 'importer' means any natural or legal person established within the Union who places PPE from a third country on the Union market;
7. 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes PPE available on the market;
8. 'economic operators' means the manufacturer, the authorised representative, the importer and the distributor;
9. 'technical specification' means a document that prescribes technical requirements to be fulfilled by PPE;
10. 'harmonised standard' means harmonised standard as defined in Article 2(1)(c) of Regulation (EU) No 1025/2012;
11. 'accreditation' means accreditation as defined in Article 2(10) of Regulation (EC) No 765/2008;
12. 'national accreditation body' means national accreditation body as defined in Article 2(11) of Regulation (EC) No 765/2008;

13. 'conformity assessment' means the process demonstrating whether the essential health and safety requirements of this Regulation relating to PPE have been fulfilled;
14. 'conformity assessment body' means a body that performs conformity assessment activities including calibration, testing, certification and inspection;
15. 'recall' means any measure aimed at achieving the return of PPE that has already been made available to the end user;
16. 'withdrawal' means any measure aimed at preventing PPE in the supply chain from being made available on the market;
17. 'Union harmonisation legislation' means any Union legislation harmonising the conditions for the marketing of products.
18. 'CE marking' means a marking by which the manufacturer indicates that PPE is in conformity with the applicable requirements set out in Union harmonisation legislation providing for its affixing;

Article 4

Making available on the market

PPE shall only be made available on the market ~~if~~ if, where properly maintained and used for its intended purpose, it complies with this Regulation *and does not endanger the health or safety of persons, domestic animals or property.*

Article 5

Essential health and safety requirements

PPE shall fulfil the applicable essential health and safety requirements set out in Annex II.

Article 6

Provisions concerning the use of PPE

This Regulation shall not affect Member States' entitlement, in particular when implementing Directive 89/656/EEC, to lay down requirements concerning the use of PPE provided that these requirements do not affect the design of PPE which is placed on the market in accordance with this Regulation.

Article 7

Free movement

1. Member States shall not impede, for the aspects covered by this Regulation, the making available of PPE which complies with this Regulation in their territory.
2. At trade fairs, exhibitions, and demonstrations *or similar events*, Member States shall not prevent the showing of PPE which does not comply with this Regulation provided that a visible sign clearly indicates that the PPE does not comply with this Regulation and is not available on the market until it has been brought into conformity.

During demonstrations, adequate measures shall be taken to ensure the protection of persons.

CHAPTER II

OBLIGATIONS OF ECONOMIC OPERATORS

Article 8

Obligations of manufacturers

1. When placing PPE on the market, manufacturers shall ensure that it has been designed and manufactured in accordance with the applicable essential health and safety requirements set out in Annex II.
2. Manufacturers shall draw up the technical documentation referred to in Annex III and carry out the applicable conformity assessment procedure(s) referred to in Article 19 or have them carried out.



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Where compliance of PPE with the applicable essential health and safety requirements has been demonstrated by the appropriate procedure(s), manufacturers shall draw up an EU declaration of conformity referred to in Article 15 and affix the CE marking referred to in Article 16.

3. Manufacturers shall keep the technical documentation and the EU declaration of conformity for ~~1~~ 10 years after the PPE has been placed on the market.
4. Manufacturers shall ensure that procedures are in place for series production to remain in conformity with this Regulation. Changes in the design or characteristics of the PPE and changes in the harmonised standards or in other technical specifications by reference to which the conformity of the PPE is declared shall be adequately taken into account.

When deemed appropriate with regard to the risks presented by a PPE, manufacturers shall, to protect the health and safety of consumers and other end users, carry out sample testing of PPE made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming PPE and PPE recalls, and shall keep distributors informed of any such monitoring.

5. Manufacturers shall ensure that the PPE which they place on the market bears a type, batch or serial number or other element allowing its identification or, where the size or nature of the PPE does not allow it, that the required information is provided on the packaging or *in* a document accompanying the PPE.

6. Manufacturers shall indicate, on the PPE, their name, registered trade name or registered trade mark and the postal address at which they can be contacted or, where that is not possible, on its packaging or in a document accompanying the PPE. The address shall indicate a single point at which the manufacturer can be contacted. The contact details shall be in a language easily understood by end-users and market surveillance authorities.
7. Manufacturers shall ensure that the PPE is accompanied by the instructions *and other information* set out in point 1.4 of Annex II in a language which can be easily understood by *consumers and other* end-users, as determined by the Member State concerned. *Such instructions, as well as any labelling, shall be clear, understandable, intelligible and legible.*
8. *The manufacturer shall either provide* the EU declaration of conformity *with the PPE or include in the instructions and information the* internet address where the -EU declaration of conformity can be *accessed.* 

9. Manufacturers who consider or have reason to believe that PPE which they have placed on the market is not in conformity with this Regulation shall immediately take the necessary corrective measures to bring it into conformity, to withdraw it or to recall it, as appropriate. Furthermore, where the PPE presents a risk, manufacturers shall immediately inform the **competent national** authorities of the Member States in which they made the PPE available on the market to that effect, giving details, in particular, of the non-conformity and of any corrective measures taken.

10. Manufacturers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation, **in paper or electronic form**, necessary to demonstrate the conformity of the PPE, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by PPE which they have placed on the market.

Article 9

Authorised representatives

1. A manufacturer may, by a written mandate, appoint an authorised representative. The obligations laid down in Article 8(1) and the obligation to draw up the technical documentation referred to in Article 8(2) shall not form part of the authorised representative's mandate.
2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following:
 - (a) keep the EU declaration of conformity and the technical documentation at the disposal of the national market surveillance authorities for ~~10~~ 10 years after the PPE has been placed on the market;
 - (b) further to a reasoned request from a *competent* national ~~10~~ authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of the PPE;
 - (c) cooperate with the *competent* national ~~10~~ authorities, at their request, on any action taken to eliminate the risks posed by PPE covered by the authorised representative's mandate.

Article 10
Obligations of importers

1. Importers shall place only compliant PPE on the market.
2. Before placing PPE on the market, importers shall ensure that the appropriate conformity assessment procedure ~~is~~ referred to in Article 19 *has* been carried out by the manufacturer. They shall ensure that the manufacturer has drawn up the technical documentation, that the PPE bears the CE marking, is accompanied by the *required documents* and that the manufacturer has complied with the requirements set out in Article 8(5) and (6).

Where an importer considers or has reason to believe that PPE is not in conformity with the applicable essential health and safety requirements set out in Annex II, he shall not place it on the market until it has been brought into conformity. Furthermore, where the PPE presents a risk, the importer shall inform the manufacturer and the market surveillance authorities to that effect.

3. Importers shall indicate, on the PPE, their name, registered trade name or registered trade mark and the postal address at which they can be contacted, or where that is not possible, on its packaging or in a document accompanying the PPE. The contact details shall be in a language easily understood by end-users and market surveillance authorities.
4. Importers shall ensure that the PPE is accompanied by the instructions ***and other information*** referred to in point 1.4 of Annex II in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned.
5. Importers shall ensure that, while the PPE is under their responsibility, storage or transport conditions do not jeopardise its conformity with the applicable essential health and safety requirements set out in Annex II.
6. ***When deemed appropriate with regard to the risks presented by a PPE, importers shall, to protect the health and safety of consumers and other end-users, carry out sample testing of PPE made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming PPE and PPE recalls, and shall keep distributors informed of any such monitoring.***

7. Importers who consider or have reason to believe that PPE which they have placed on the market is not in conformity with this Regulation shall immediately take the corrective measures necessary to bring the PPE into conformity, to withdraw it or to recall it, as appropriate. Furthermore, where the PPE presents a risk, importers shall immediately inform the *competent national* authorities of the Member States in which they made the PPE available on the market to that effect, giving details, in particular, of the non-conformity and of any corrective measures taken.
8. Importers shall, for ~~1~~ 10 years after the PPE has been placed on the market, keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.
9. Importers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation, in paper or electronic form, necessary to demonstrate the conformity of PPE in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by PPE which they have placed on the market.

Article 11

Obligations of distributors

1. When making PPE available on the market, distributors shall act with due care in relation to the requirements of this Regulation.
2. Before making PPE available on the market, distributors shall verify that it bears the CE marking, is accompanied by the **required documents and** by the instructions **and other information** set out in point 1.4 of Annex II in a language which can be easily understood by **consumers and other** end-users in the Member State in which PPE is to be made available on the market and that the manufacturer and the importer have complied with the requirements set out in Article 8(5) and (6) and Article 10(3) **respectively**.

Where a distributor considers or has reason to believe that PPE is not in conformity with the applicable essential health and safety requirements set out in Annex II, he shall not make the PPE available on the market until it has been brought into conformity.

Furthermore, where the PPE presents a risk, the distributor shall inform the manufacturer or the importer to that effect as well as the market surveillance authorities.

3. Distributors shall ensure that, while PPE is under their responsibility, its storage or transport conditions do not jeopardise its conformity with the applicable essential health and safety requirements set out in Annex II.
4. Distributors who consider or have reason to believe that PPE which they have made available on the market is not in conformity with the requirements of this Regulation shall make sure that the necessary corrective measures are taken to bring it into conformity, to withdraw it or to recall it, as appropriate. Furthermore, where the PPE presents a risk, distributors shall immediately inform the *competent national* authorities of the Member States in which they have made the PPE available on the market to that effect, giving details, in particular, of the non-conformity and of any corrective measures taken.
5. Distributors shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of the PPE. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by PPE which they have made available on the market.

Article 12

Cases in which obligations of manufacturers apply to importers and distributors

An importer or distributor shall be considered a manufacturer for the purposes of this Regulation and he shall be subject to the obligations of the manufacturer set out in Article 8 where he places PPE on the market under his name or trademark or modifies PPE already placed on the market in such a way that *compliance with this Regulation* may be affected.

Article 13

Identification of economic operators

Economic operators shall, on request, identify the following to the market surveillance authorities:

- (a) any economic operator who has supplied them with PPE;
- (b) any economic operator to whom they have supplied PPE.

Economic operators shall be able to present the information referred to in the first paragraph for ~~10~~ 10 years after they have been supplied with the PPE and for ~~10~~ 10 years after they have supplied the PPE.

CHAPTER III

CONFORMITY OF THE PPE

Article 14

Presumption of conformity

PPE which is in conformity with harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* shall be presumed to be in conformity with the essential health and safety requirements set out in Annex II covered by those standards or parts thereof.

Article 15

EU declaration of conformity

1. The EU declaration of conformity shall state that the fulfilment of the applicable essential health and safety requirements set out in Annex II has been demonstrated.
2. The EU declaration of conformity shall have the *model* structure **set out in Annex IX**, shall contain the elements **specified in the relevant modules** set out in **Annexes IV, VI, VII and VIII** and shall be continuously updated. It shall be translated into the language or languages required by the Member State in which the PPE is **placed or** made available on the market.

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3. Where PPE is subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall be drawn up in respect of all such Union acts. That declaration shall contain the identification of the Union acts concerned, including their publication references.
4. By drawing up the EU declaration of conformity, the manufacturer shall assume ~~■~~ responsibility for the *compliance* of the PPE with the requirements *laid down in* this Regulation.

Article 16

General principles of the CE marking

~~■~~The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.

Article 17

Rules and conditions for affixing the CE marking

1. The CE marking shall be affixed visibly, legibly and indelibly to the PPE. Where that is not possible or not warranted on account of the nature of the PPE, it shall be affixed to the packaging and to the accompanying documents.

2. *The CE marking shall be affixed before the PPE is placed on the market.*

3. **█**For category III PPE, the CE marking shall be followed by the identification number of the notified body involved in the procedure *set out in Annex VII or VIII*.

The identification number of the notified body shall be affixed by the body itself or, under its instructions, by the manufacturer or his authorised representative.

4. *The CE marking and, where applicable, the identification number of the notified body may be accompanied by a pictogram or other marking indicating the risk against which the PPE is intended to protect.*

5. *Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of that marking.*

CHAPTER IV

CONFORMITY ASSESSMENT

Article 18

Risk categories of PPE

The PPE shall be classified *according to* the risk categories set out in Annex I.

Article 19

Conformity assessment procedures

The procedures to be followed, for each of the risk categories set out in Annex I, are as follows:

- (a) Category I: internal production control (module A) set out in Annex IV;
- (b) Category II: EU type-examination (module B) set out in Annex V that is followed by conformity to type based on internal production control (module C) set out in Annex VI;

(c) Category III: EU type-examination (module B) set out in Annex V and either of the following:

(i) conformity to type based on *internal production control plus supervised product checks at random intervals* (module C2) set out in Annex VII;

(ii) conformity to type based on quality assurance of the production process (module D) set out in Annex VIII.

By way of derogation, for PPE produced as a single unit to fit an individual user and classified according to Category III, the procedure mentioned under (b) may be followed.

CHAPTER V

NOTIFICATION OF CONFORMITY ASSESSMENT BODIES

Article 20 Notification

Member States shall notify the Commission and the other Member States of bodies authorised to carry out third-party conformity assessment tasks under this Regulation.

Article 21 Notifying authorities

1. Member States shall designate a notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, including compliance with Article 26.
2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by a national accreditation body within the meaning of and in accordance with Regulation (EC) No 765/2008.

3. Where the notifying authority delegates or otherwise entrusts the assessment, notification or monitoring referred to in paragraph 1 to a body which is not a governmental entity, that body shall be a legal entity and shall comply mutatis mutandis with the requirements laid down in Article 22. In addition that body shall have arrangements to cover liabilities arising out of its activities.
4. The notifying authority shall take full responsibility for the tasks performed by the body referred to in paragraph 3.

Article 22

Requirements relating to notifying authorities

1. A notifying authority shall be established in such a way that no conflict of interest with conformity assessment bodies occurs.
2. A notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.
3. A notifying authority shall be organised in such a way that each decision relating to notification of a conformity assessment body is taken by competent persons different from those who carried out the assessment.

4. A notifying authority shall not offer or provide any activities that conformity assessment bodies perform or consultancy services on a commercial or competitive basis.
5. A notifying authority shall safeguard the confidentiality of the information it obtains.
6. A notifying authority shall have a sufficient number of competent personnel at its disposal for the proper performance of its tasks.

Article 23

Information obligation on notifying authorities

Member States shall inform the Commission of their procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, and of any changes thereto.

The Commission shall make that information publicly available.

Article 24

Requirements relating to notified bodies

1. For the purposes of notification, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 11.

2. A conformity assessment body shall be established under national law *of a Member State* and have legal personality.
3. A conformity assessment body shall be a third-party body independent of the organisation or the PPE it assesses.

A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of PPE which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such a body.

4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, purchaser, owner, user or maintainer of the PPE which they assess, nor the representative of any of those parties. This does not preclude the use of assessed PPE that are necessary for the operations of the conformity assessment body or the use of such PPE for personal purposes.

A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly ~~or~~ involved in the design, manufacture, *marketing*, use or maintenance of PPE, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall in particular apply to consultancy services.

Conformity assessment bodies shall ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

5. Conformity assessment bodies and their personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.

6. A conformity assessment body shall be capable of carrying out all the conformity assessment tasks assigned to it by Annexes V, VII and VIII and in relation to which it has been notified, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

At all times and for each conformity assessment procedure and each kind of PPE for which it has been notified, a conformity assessment body shall have at its disposal the necessary:

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;
- (b) descriptions of procedures in accordance with which conformity assessment is carried out ensuring the transparency and the ability of reproduction of those procedures. It shall have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities;
- (c) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the PPE technology in question and the mass or serial nature of the production process.

A conformity assessment body shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.

7. The personnel responsible for carrying out conformity assessment activities shall have the following:
- (a) sound technical and vocational training covering all the conformity assessment tasks for which the conformity assessment body has been notified;
 - (b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;
 - (c) appropriate knowledge and understanding of the essential health and safety requirements set out in Annex II, of the corresponding harmonised standards and of the relevant provisions of Union harmonisation *legislation and of relevant national* legislation;
 - (d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

8. The impartiality of the conformity assessment bodies, their management and of the personnel responsible for carrying out the conformity assessment tasks shall be guaranteed.

The remuneration of the top level management and personnel responsible for carrying out the conformity assessment tasks of a conformity assessment body shall not depend on the number of assessments carried out or on the results of those assessments.
9. Conformity assessment bodies shall take out liability insurance unless liability is assumed by the *Member* State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.
10. The personnel of a conformity assessment body shall observe professional secrecy with regard to all information obtained in carrying out the tasks under Annexes V, VII and VIII **1**, except in relation to the competent authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.
11. Conformity assessment bodies shall participate in, or ensure that their personnel responsible for carrying out the conformity assessment tasks are informed of, the relevant standardisation activities and the activities of the notified body coordination group established under *Article 36* and shall apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

Article 25

Presumption of conformity of notified bodies

Where a conformity assessment body demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union*, it shall be presumed to comply with the requirements set out in Article 24 in so far as the applicable harmonised standards cover those requirements.

Article 26

Subsidiaries of and subcontracting by notified bodies

1. Where a notified body subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 24 and shall inform the notifying authority accordingly.
2. Notified bodies shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.
3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.

4. Notified bodies shall keep at the disposal of the notifying authority the relevant documents concerning the assessment of the qualifications of the subcontractor or the subsidiary and the *work* carried out by them under Annexes V, VII and VIII.

Article 27

Application for notification

1. A conformity assessment body shall submit an application for notification to the notifying authority of the Member State in which it is established.
2. The application for notification shall be accompanied by a description of the conformity assessment activities, the conformity assessment *module or modules* and the kinds of PPE for which that body claims to be competent, as well as by an accreditation certificate, where one exists, issued by a national accreditation body attesting that the conformity assessment body fulfils the requirements laid down in Article 24.
3. Where the conformity assessment body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all the documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 24.

Article 28

Notification procedure

1. Notifying authorities may notify only conformity assessment bodies which have satisfied the requirements laid down in Article 24.
2. They shall notify the Commission and the other Member States using the electronic notification tool developed and managed by the Commission.
3. The notification shall include full details of the conformity assessment activities, the conformity assessment *module or modules* and the kinds of PPE concerned and the relevant attestation of competence.
4. Where a notification is not based on an accreditation certificate referred to in Article 27(2), the notifying authority shall provide the Commission and the other Member States with documentary evidence which attests to the conformity assessment body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 24.

5. The body concerned may perform the activities of a notified body only where no objections are raised by the Commission or the other Member States within two weeks of a notification where an accreditation certificate is used or within two months of a notification where accreditation is not used.

Only such a body shall be considered a notified body for the purposes of this Regulation.

6. The notifying authority shall notify the Commission and the other Member States of any subsequent relevant changes to the notification.

Article 29

Identification numbers and lists of notified bodies

1. The Commission shall assign an identification number to a notified body.

It shall assign a single identification number even where the body is notified under several Union acts.

2. The Commission shall make publicly available the list of the bodies notified under this Regulation, including the identification numbers that have been assigned to them and the activities for which they have been notified.

The Commission shall ensure that the list is kept up to date.

Article 30

Changes to notifications

1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 24, or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw notification as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. It shall immediately inform the Commission and the other Member States accordingly.
2. In the event of restriction, suspension or withdrawal of notification, or where the notified body has ceased its activity, the notifying Member State shall take appropriate steps to ensure that the files of that body are either processed by another notified body or kept available for the responsible notifying and market surveillance authorities at their request.

Article 31

Challenge to the competence of notified bodies

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding the competence of a notified body or the continued fulfilment by a notified body of the requirements and responsibilities to which it is subject.
2. The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the notified body concerned.
3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.
4. Where the Commission ascertains that a notified body does not meet or no longer meets the requirements for its notification, it shall adopt an implementing act requesting the notifying Member State to take the necessary corrective measures, including the withdrawal of the notification if necessary.

That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 44(2).

Article 32

Operational obligations of notified bodies

1. Notified bodies shall carry out conformity assessments in accordance with the conformity assessment procedures provided for in Annexes V, VII and VIII.
2. Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators. Conformity assessment bodies shall perform their activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the PPE technology in question and the mass or serial nature of the production process.

In so doing they shall nevertheless respect the degree of rigour and the level of protection required for the compliance of the PPE with the requirements of this Regulation.

3. Where a notified body finds that the **■** essential health and safety requirements set out in Annex II or the corresponding harmonised standards or other technical specifications have not been met by a manufacturer, it shall require the manufacturer to take appropriate corrective measures and shall not issue a conformity certificate *or approval decision*.

4. Where, in the course of the monitoring of conformity following the issue of a certificate *or approval decision*, a notified body finds that a PPE no longer complies~~—~~, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate if necessary.
5. Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw the certificate *or approval decision*, as appropriate.

Article 33

Appeal against decisions of notified bodies

Notified bodies shall ensure that *a transparent and accessible* appeal procedure against *their* decisions~~—~~ is available.

Article 34

Information obligation on notified bodies

1. Notified bodies shall inform the notifying authority of the following:
 - (a) any refusal, restriction, suspension or withdrawal of a certificate *or approval decision*;
 - (b) any circumstances affecting the scope of *or* conditions for notification;
 - (c) any request for information which they have received from market surveillance authorities regarding conformity assessment activities;
 - (d) on request, conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.
2. Notified bodies shall provide the other bodies notified under this Regulation carrying out similar conformity assessment activities covering the same kinds of PPE with relevant information on issues relating to negative and, on request, positive conformity assessment results.

Article 35

Exchange of experience

The Commission shall provide for the organisation of exchange of experience between the Member States' national authorities responsible for notification policy.

Article 36

Coordination of notified bodies

The Commission shall ensure that appropriate coordination and cooperation between bodies notified under this Regulation are put in place and properly operated in the form of a sectoral group of notified bodies.

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Notified bodies *shall* participate in the work of that group, directly or by means of designated representatives.

CHAPTER VI
UNION MARKET SURVEILLANCE,
CONTROL OF PPE ENTERING THE UNION MARKET
AND UNION SAFEGUARD PROCEDURE

Article 37

Union market surveillance and control of PPE entering the Union market

Article 15(3) and Articles 16 to 29 of Regulation (EC) No 765/2008 shall apply to PPE covered by Article 2(1) of this Regulation.

Article 38

Procedure for dealing with PPE presenting a risk at national level

- 1. Where the market surveillance authorities of one Member State have sufficient reason to believe that PPE covered by this Regulation presents a risk to the health or safety of persons, they shall carry out an evaluation in relation to the PPE concerned covering all relevant requirements laid down in this Regulation. The relevant economic operators shall cooperate as necessary with the market surveillance authorities for that purpose.***

Where, in the course of the evaluation referred to in the first subparagraph, the market surveillance authorities find that the PPE does not comply with the requirements laid down in this Regulation, they shall without delay require the relevant economic operator to take all appropriate corrective actions to bring the PPE into compliance with those requirements, to withdraw the PPE from the market, or to recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.

The market surveillance authorities shall inform the relevant notified body accordingly.

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second subparagraph of this paragraph.

- 2. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the economic operator to take.*
- 3. The economic operator shall ensure that all appropriate corrective action is taken in respect of all the PPE concerned that it has made available on the market throughout the Union.*

4. *Where the relevant economic operator does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the PPE's being made available on their national market, to withdraw the PPE from that market or to recall it.*

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.

5. *The information referred to in the second subparagraph of paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant PPE, the origin of the PPE, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either of the following:*

(a) *failure of the PPE to meet requirements relating to the health or safety of persons;*
or

(b) *shortcomings in the harmonised standards referred to in Article 14 conferring a presumption of conformity.*

6. *Member States other than the Member State initiating the procedure under this Article shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the PPE concerned, and, in the event of disagreement with the adopted national measure, of their objections.*
7. *Where, within three months of receipt of the information referred to in the second subparagraph of paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.*
8. *Member States shall ensure that appropriate restrictive measures, such as withdrawal of the PPE from the market, are taken in respect of the PPE concerned without delay.*

Article 39

Union safeguard procedure

- 1. Where, on completion of the procedure set out in Article 38(3) and (4), objections are raised against a measure taken by a Member State, or where the Commission considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall adopt an implementing act determining whether the national measure is justified or not.*

The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators.

- 2. If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant PPE is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw that measure.*

3. *Where the national measure is considered justified and the non-compliance of the PPE is attributed to shortcomings in the harmonised standards referred to in point (b) of Article 38(5) of this Regulation, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.*

Article 40

Compliant PPE which presents a risk

1. *Where, having carried out an evaluation under Article 38(1), a Member State finds that although a PPE is in compliance with this Regulation, it presents a risk to the health or safety of persons, it shall require the relevant economic operator to take all appropriate measures to ensure that the PPE concerned, when placed on the market, no longer presents that risk, to withdraw the PPE from the market or to recall it within a reasonable period, commensurate with the nature of the risk, as it may prescribe.*
2. *The economic operator shall ensure that corrective action is taken in respect of all the PPE concerned that he has made available on the market throughout the Union.*
3. *The Member State shall immediately inform the Commission and the other Member States. That information shall include all available details, in particular the data necessary for the identification of the PPE concerned, the origin and the supply chain of the PPE, the nature of the risk involved and the nature and duration of the national measures taken.*

4. *The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide by means of implementing acts whether the national measure is justified or not and, where necessary, propose appropriate measures.*

The implementing acts referred to in the first subparagraph of this paragraph shall be adopted in accordance with the examination procedure referred to in Article 44(3).

On duly justified imperative grounds of urgency relating to the protection of health and safety of persons, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 44(4).

5. *The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators.*

Article 41

Formal non-compliance

- 1. Without prejudice to Article 38, where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned:**
 - (a) the CE marking has been affixed in violation of Article 30 of Regulation (EC) No 765/2008 or of Article 16 of this Regulation or has not been affixed;**
 - (b) the identification number of the notified body involved in the production control phase has been affixed in violation of Article 16 or has not been affixed;**
 - (c) the EU declaration of conformity has not been drawn up or has not been drawn up correctly;**
 - (d) the technical documentation is either not available or not complete.**
 - (e) the information referred to in Article 8(6) or Article 10(3) is absent, false or incomplete;**
 - (f) any other administrative requirement provided for in Article 8 or Article 10 is not fulfilled.**

- 2. Where the non-compliance referred to in paragraph 1 persists, the Member State concerned shall take all appropriate measures to restrict or prohibit the PPE being made available on the market or ensure that it is recalled or withdrawn from the market.**

CHAPTER VII

DELEGATED AND IMPLEMENTING ACTS

Article 42

Delegating power

- 1. In order to take into account technical progress and knowledge or new scientific evidence with respect to the category of a specific risk, the Commission shall be empowered to adopt delegated acts in accordance with Article 43 **in order** to amend Annex I by reclassifying the risk from a category to another.*
- 2. A Member State having concerns about the classification of a risk into a specific risk category referred to in Article 18 shall immediately inform the Commission of its concerns and provide reasons in support.*
- 3. Prior to adopting a delegated act the Commission shall carry out a thorough assessment of the risks that require reclassification and its impacts.*

Article 43

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 42 shall be conferred on the Commission for a period of five years from ... * ~~1~~. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period,

It is of particular importance that the Commission follow its usual practice and carry out consultations with experts, including Member States' experts, before adopting those delegated acts.

3. The delegation of powers referred to in Article 42 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

* ***OJ: please insert the date of application of this Regulation.***

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 42 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 44

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. ***Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.***

4. *Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.*
5. *The committee shall be consulted by the Commission on any matter for which consultation of sectoral experts is required by Regulation (EU) No 1025/2012 or by any other Union legislation.*

The committee may furthermore examine any other matter concerning the application of this Regulation raised either by its chair or by a representative of a Member State in accordance with its rules of procedure.

CHAPTER VIII

FINAL AND TRANSITIONAL PROVISIONS

Article 45

Penalties

1. Member States shall lay down the rules on penalties applicable to infringements *by economic operators* of the provisions of this Regulation. *Such rules may include criminal penalties for serious infringements.*

The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by [*one* months prior to the date of application of this Regulation] at the latest and shall notify it without delay of any subsequent amendment affecting them.

2. *Member States shall take all measures necessary to ensure that their rules on penalties applicable to infringements by economic operators of the provisions of this Regulation are enforced.*

Article 46

Repeal

Directive 89/686/EEC is repealed *from ...* *.

References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XI.

Article 47

Transitional period

1. Without prejudice to paragraph 2, Member States shall not impede the making available on the market of products covered by Directive 89/686/EEC which are in conformity with that Directive and which were placed on the market before [1 year after the date of application]
2. EC type-examination certificates *and approval decisions* issued under Directive 89/686/EEC shall remain valid until [5 years after the date of application] unless they expire before that date.

* *OJ: Please insert date of application of this Regulation.*

Article 48

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.
2. It shall apply from [two years after entry into force].
3. ***By way of derogation from paragraph 2:***
 - (a) Articles 20 to 36 ***and Article 44*** shall apply from [six months after entry into force].
 - (b) ***Paragraph 1 of Article 45 shall apply from [1 year and 11 months after entry into force].***

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX I

Risk Categories of PPE

This Annex lays down the categories of risk against which PPE is intended to protect users.

Category I

Category I includes exclusively the following *minimal* risks:

- (a) superficial mechanical injury;
- (b) contact with cleaning materials of weak action *or prolonged contact with water*;
- (c) contact with hot surfaces not exceeding 50°C;
- (d) damage to the eyes due to exposure to sunlight (other than during observation of the sun);
- (e) atmospheric conditions that are not of an extreme nature.

Category II

Category II includes:

- (a) risks other than those listed in Categories I and III;

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Category III

–Category III includes exclusively –the following risks *that may cause very serious consequences such as death or irreversible damage to health*:

- (a) substances *and mixtures which are hazardous to health*;
- (b) *atmospheres with oxygen deficiency*;
- (c) *harmful biological agents*
- (d) ionising radiation;
- (e) high-temperature environments the effects of which are comparable to those of an air temperature of at least 100°C;

- (f) low-temperature environments the effects of which are comparable to those of an air temperature of -50°C or less;
- (g) falling from a height;
- (h) electric shock and live working;
- (i) drowning;
- (j) cuts by hand-held chain-saws;
- (k) high-pressure *jets*;
- (l) bullet wounds or knife stabs;
- (m) harmful noise.

Essential health and safety requirements

PRELIMINARY REMARKS

1. *The essential health and safety requirements laid down in this Regulation are compulsory.*
2. *Obligations under essential health and safety requirements apply only where the corresponding risk exists for the PPE in question*
3. *The essential requirements are to be interpreted and applied in such a way as to take into account the state of the art and current practice at the time of design and manufacture as well as of technical and economic considerations which are consistent with a high degree of health and safety protection.*
4. *The manufacturer is under an obligation to carry out a risk assessment in order to identify the risks which apply to his PPE. He shall then design and manufacture it taking into account of the assessment.*
5. *When designing and manufacturing the PPE, and when drafting the instructions, the manufacturer shall envisage not only the intended use of the PPE, but also the reasonably foreseen uses. Where applicable, the health and safety of persons other than the user shall be ensured.*

1. GENERAL REQUIREMENTS APPLICABLE TO ALL PPE

PPE must provide adequate protection against the risks against which it is intended to protect.

1.1. Design principles

1.1.1. Ergonomics

PPE must be designed and manufactured so that, in the foreseeable conditions of use for which it is intended, the user can perform the risk-related activity normally whilst enjoying appropriate protection of the highest level possible.

1.1.2. Levels and classes of protection

1.1.2.1. Optimum level of protection

The optimum level of protection to be taken into account in the design is that beyond which the constraints imposed by the wearing of the PPE would prevent its effective use during the period of exposure to the risk or the normal performance of the activity.

1.1.2.2. Classes of protection appropriate to different levels of risk

Where differing foreseeable conditions of use are such that several levels of the same risk can be distinguished, appropriate classes of protection must be taken into account in the design of the PPE.

1.2. Innocuousness of PPE

1.2.1. *Absence of inherent risks and other nuisance factors*

PPE must be designed and manufactured so as not to create risks or other nuisance factors under foreseeable conditions of use.

1.2.1.1. Suitable constituent materials

The materials of which the PPE is made, including any of their possible decomposition products, must not adversely affect the health or safety of users.

1.2.1.2. Satisfactory surface condition of all PPE parts in contact with the user

Any part of the PPE that is in contact or is liable to come into contact with the user when the PPE is worn must be free of rough surfaces, sharp edges, sharp points and the like which could cause excessive irritation or injuries.

1.2.1.3. Maximum permissible user impediment

Any impediment caused by PPE to the actions to be carried out, the postures to be adopted and sensory perceptions shall be minimised; furthermore, use of the PPE must not engender actions which might endanger the user—

1.3. Comfort and effectiveness

1.3.1. *Adaptation of PPE to user morphology*

PPE must be designed and manufactured to facilitate its correct positioning on the user and to remain in place for the foreseeable period of use, bearing in mind ambient factors, the actions to be carried out and the postures to be adopted. For this purpose, it must be possible to adapt the PPE to fit the morphology of the user by all appropriate means such as adequate adjustment and attachment systems or the provision of an adequate range of sizes.

1.3.2. *Lightness and strength*

PPE must be as light as possible without prejudicing its strength and effectiveness.

As well as the specific additional requirements which they must satisfy in order to provide adequate protection against the risks for which they are intended, PPE must be capable of withstanding environmental factors in the foreseeable conditions of use.

1.3.3. *Compatibility of **different** types of PPE intended for simultaneous use*

If the same manufacturer places on the market several **■** PPE models of different types in order to ensure the simultaneous protection of adjacent parts of the body, they must be compatible.

1.3.4. Protective clothing containing removable protectors

Protective clothing containing removable protectors constitute a PPE and should be assessed as a combination during conformity assessment procedures.

1.4. Manufacturer's instructions and information

In addition to the name and address of the manufacturer —the instructions that must be —supplied with the PPE— must contain all relevant information on:

- (a) instructions for storage, use, cleaning, maintenance, servicing and disinfection. Cleaning, maintenance or disinfectant products recommended by manufacturers must have no adverse effect on the PPE or the user when applied in accordance with the relevant instructions;
- (b) performance as recorded during *relevant* technical tests to check the levels or classes of protection provided by the PPE;
- (c) *where applicable*, accessories that may be used with the PPE and the characteristics of appropriate spare parts;
- (d) *where applicable*, the classes of protection appropriate to different levels of risk and the corresponding limits of use;

- (e) *if applicable*, the *month/year* or period of obsolescence of the PPE or of certain of its components;
- (f) *where applicable*, the type of packaging suitable for transport;
- (g) the significance of any markings (see 2.12);
- (h) *the risk against which the PPE is designed to protect*;
- (i) *the reference to this Regulation, and* where applicable, the references *to* other Union harmonisation legislation;
- (j) the name, address and identification number of the notified body or bodies involved in the conformity assessment of the PPE.,
- (k) *references to the relevant harmonised standard(s) used, including the date of the standard(s), or references to the other technical specifications used*,
- (l) *the internet address where the EU declaration of conformity can be accessed*.

The information referred to in points (i), (j), (k) and (l) need not be contained in the instructions supplied by the manufacturer, if the EU declaration of conformity is accompanying the PPE.

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2. ADDITIONAL REQUIREMENTS COMMON TO SEVERAL TYPES OF PPE

2.1. PPE incorporating adjustment systems

If PPE incorporates adjustment systems, the latter must be designed and manufactured so that, after adjustment, they do *not* become undone unintentionally in the foreseeable conditions of use.

2.2. PPE enclosing the parts of the body to be protected

PPE must be designed and manufactured in a way that perspiration resulting from use is minimized, otherwise, it must be equipped with means of absorbing perspiration.

2.3. PPE for the face, eyes and respiratory system

Any restriction of the user's face, eyes, field of vision or respiratory system by the PPE shall be minimised.

The screens for these types of PPE must have a degree of optical neutrality that is compatible with the degree of precision and the duration of the activities of the user.

If necessary, they must be treated or provided with means to prevent misting up.

Models of PPE intended for users requiring sight correction must be compatible with the wearing of spectacles or contact lenses.

2.4. PPE subject to ageing

If it is known that the design performance of new PPE may be significantly affected by ageing, the *month and year* of manufacture and/or, if possible, the *month and year* of obsolescence, must be indelibly and unambiguously marked on each item of PPE placed on the market and on their packaging.

If the manufacturer is unable to give an undertaking with regard to the useful life of the PPE, his instructions must provide all the information necessary to enable the purchaser or user to establish a reasonable obsolescence *month and year*, taking into account the quality level of the model and the effective conditions of storage, use, cleaning, servicing and maintenance.

Where appreciable and rapid deterioration in PPE performance is likely to be caused by ageing resulting from the periodic use of a cleaning process recommended by the manufacturer, the latter must, if possible, affix a marking to each item of PPE placed on the market indicating the maximum number of cleaning operations that may be carried out before the equipment needs to be inspected or discarded; failing that, the manufacturer must give this information in his instructions.

2.5. PPE which may be caught up during use

Where the foreseeable conditions of use include in particular the risk of the PPE being caught up by a moving object thereby creating a danger for the user, the PPE must *be designed and manufactured in a way that* a constituent part will break *or tear* and *so eliminating* the danger.

2.6. PPE for use in potentially explosive atmospheres

PPE intended for use in potentially explosive atmospheres must be so designed and manufactured that it cannot be the source of an electric, electrostatic or impact-induced arc or spark likely to cause an explosive mixture to ignite.

2.7. PPE intended for rapid intervention or to be put on or removed rapidly

These types of PPE must be designed and manufactured to minimize the time required for putting on and removing the equipment.

Where PPE comprises fixing systems enabling the PPE to be maintained in the correct position on the user or removed, it must be possible to operate them quickly and easily.

2.8. PPE for intervention in very dangerous situations

The instructions supplied by the manufacturer with PPE for intervention in very dangerous situations must include, in particular, data intended for competent, trained persons who are qualified to interpret them and ensure their application by the user.

They must also describe the procedure to be adopted in order to verify that PPE is correctly adjusted and functional when worn by the user.

Where the PPE incorporates an alarm which is activated in the absence of the level of protection normally provided, this must be designed and placed so that it can be perceived by the user in the foreseeable conditions of use.

2.9. PPE incorporating components which can be adjusted or removed by the user

Where PPE incorporates components which can be *attached*, adjusted or removed by the user for replacement purposes, they must be designed and manufactured so that they can be easily attached, *adjusted* and removed without tools.

2.10. PPE for connection to complementary equipment external to the PPE

Where PPE incorporates a connexion system permitting its connection to other, complementary equipment, the means of attachment must be designed and manufactured to enable it to be mounted only on appropriate equipment.

2.11. PPE incorporating a fluid circulation system

Where PPE incorporates a fluid circulation system, the latter must be chosen or designed and placed to permit adequate fluid renewal in the vicinity of the entire part of the body to be protected, irrespective of the actions, postures or movements of the user under the foreseeable conditions of use.

2.12. PPE bearing one or more identification markings or indicators directly or indirectly relating to health and safety

The identification markings or indicators directly or indirectly relating to health and safety affixed to these types of PPE must, if possible, take the form of harmonized pictograms or ideograms. They must be perfectly visible and legible and remain so throughout the foreseeable useful life of the PPE. In addition, these markings must be complete, precise and comprehensible so as to prevent any misinterpretation; in particular, when such markings include words or sentences, the latter must be written in *a language easily understood by end-users, as determined by* the Member State where the equipment is *made available on the market*.

Where the PPE is too small to allow all or part of the necessary marking to be affixed, the relevant information must be mentioned on the packaging and in the manufacturer's instructions.

2.13. PPE capable of signalling the user's presence visually

PPE intended for foreseeable conditions of use in which the user's presence must be visibly and individually signalled must have one (or more) judiciously positioned means or devices for emitting direct or reflected visible radiation of appropriate luminous intensity and photometric and colorimetric properties.

2.14. Multi-risk PPE

PPE intended to protect the user against several potentially simultaneous risks must be designed and manufactured to satisfy, in particular, the essential health and safety requirements specific to each of those risks.

3. ADDITIONAL REQUIREMENTS SPECIFIC TO PARTICULAR RISKS



3.1. Protection against mechanical impact

3.1.1. *Impact caused by falling or ejected objects and collisions of parts of the body with an obstacle*

PPE intended for this type of risk must be sufficiently shock-absorbent to prevent injury resulting, in particular, from the crushing or penetration of the protected part, at least up to an impact-energy level above which the excessive dimensions or mass of the means of shock-absorption would preclude effective use of the PPE for the foreseeable period of wear.

3.1.2. *Falls*

3.1.2.1. Prevention of falls due to slipping

The outsoles of protective footwear intended to prevent slipping must be designed and manufactured or equipped with additional means to ensure adequate grip , having regard to the nature or state of the -surface.

3.1.2.2. Prevention of falls from a height

PPE intended to prevent falls from a height or their effects must incorporate a body harness and a connexion system which can be connected to a reliable external anchorage point. It must be designed and manufactured so that, under the foreseeable conditions of use, the vertical drop of the user is minimized to prevent collision with obstacles while the braking force does not attain the threshold value at which physical injury or the opening or breakage of any PPE component which might cause the user to fall can be expected to occur.

It must also ensure that, after braking, the user is maintained in a correct position in which he may await help if necessary.

The manufacturer's instructions must specify, in particular, all relevant information relating to:

- (a) the characteristics required for the reliable external anchorage point and the necessary minimum clearance below the user;
- (b) the proper way of putting on the body harness and of attaching the connexion system to the reliable *external* anchorage point.

3.1.3. *Mechanical vibration*

PPE designed to prevent the effects of mechanical vibrations must be capable of ensuring adequate attenuation of harmful vibration components for the part of the body at risk.

3.2. Protection against static compression of part of the body

PPE designed to protect part of the body against static compressive stress must be sufficiently capable of attenuating its effects to prevent serious injury or chronic complaints.

3.3. Protection against mechanical injuries

PPE constituent materials and other components designed to protect all or part of the body against superficial injuries, such as abrasion, perforation, cuts or bites, must be so chosen or designed and incorporated as to ensure that these types of PPE provide sufficient resistance to abrasion, perforation and gashing (see also 3.1) under the foreseeable conditions of use.

3.4. Protection in *liquids*

3.4.1. Prevention of drowning

PPE designed to prevent drowning must be capable of returning to the surface as quickly as possible, without danger to his health, a user who may be exhausted or unconscious after falling into a liquid medium, and of keeping him afloat in a position which permits breathing while awaiting help.

PPE may be wholly or partially inherently buoyant or may be inflated by gas which can be manually or automatically released, or orally.

Under the foreseeable conditions of use:

- (a) PPE must, without prejudice to its satisfactory operation, be capable of withstanding the effects of impact with the liquid medium and the environmental factors inherent in that medium;
- (b) inflatable PPE must be capable of inflating rapidly and fully.

Where particular foreseeable conditions of use so require, certain types of PPE must also satisfy one or more of the following additional requirements:

- (a) they must have all the inflation devices referred to in the second subparagraph, and/or a light or sound-signalling device;
- (b) they must have a device for hitching and attaching the body so that the user may be lifted out of the liquid medium;
- (c) they must be suitable for prolonged use throughout the period of activity exposing the user, possibly dressed, to the risk of falling into the liquid medium or requiring his immersion in it.

3.4.2. *Buoyancy aids*

Clothing *intended to* ensure an effective degree of buoyancy, depending on its foreseeable use, *shall be* safe when worn and *afford* positive support in *the liquid medium*. In foreseeable conditions of use, this PPE must not restrict the user's freedom of movement but must enable him, in particular, to swim or take action to escape from danger or to rescue other persons.

3.5. Protection against the harmful effects of noise

PPE intended to prevent the harmful effects of noise must be capable of attenuating the latter so that the exposure of the user does not exceed the limit values laid down by Directive 2003/10/EC of the European Parliament and of the Council¹.

Each item of PPE must bear labelling indicating the noise attenuation level provided by the PPE; should this not be possible, the labelling must be fixed to the packaging.

3.6. Protection against heat and/or fire

PPE designed to protect all or part of the body against the effects of heat and/or fire must possess thermal insulation capacity and mechanical strength appropriate to the foreseeable conditions of use.

3.6.1. PPE constituent materials and other components

Constituent materials and other components intended for protection against radiant and convective heat must possess an appropriate coefficient of transmission of incident heat flux and be sufficiently incombustible to preclude any risk of spontaneous ignition under the foreseeable conditions of use.

Where the outside of these materials and components must be reflective, its reflective power must be appropriate to the intensity of the heat flux due to radiation in the infra-red range.

Materials and other components of equipment intended for brief use in high-temperature environments and of PPE which may be splashed by hot products such as **■** molten material must also possess sufficient thermal capacity to retain most of the stored heat until after the user has left the danger area and removed his PPE.

PPE materials and other components which may be splashed by **■** hot products must also possess sufficient mechanical-impact absorbency (see 3.1).

PPE materials and other components which may accidentally come into contact with flame and those used in the manufacture of *industrial or* fire-fighting equipment must also possess a degree of non-flammability *and thermal or arc heat protection* corresponding to the risk class associated with the foreseeable conditions of use. They must not melt when exposed to flames nor contribute to flame propagation.

3.6.2. *Complete PPE ready for use*

Under the foreseeable conditions of use:

- (a) the quantity of heat transmitted by PPE to the user must be sufficiently low to prevent the heat accumulated during wear in the part of the body at risk from attaining, under any circumstances, the pain or health impairment threshold;
- (b) the PPE must if necessary prevent liquid or steam penetration and must not cause burns resulting from contact between its protective integument and the user.

If PPE incorporates refrigeration devices for the absorption of incident heat by means of liquid evaporation or solid sublimation, their design must be such that any volatile substances released are discharged beyond the outer protective integument and not towards the user.

If PPE incorporates a breathing device, the latter must adequately fulfil the protective function assigned to it under the foreseeable conditions of use.


The manufacturer's instructions accompanying PPE intended for brief use in high-temperature environments must in particular provide all relevant data for the determination of the maximum permissible user exposure to the heat transmitted by the equipment when used in accordance with its intended purpose.

3.7. Protection against cold

PPE designed to protect all or part of the body against the effects of cold must possess thermal insulating capacity and mechanical strength appropriate to the foreseeable conditions of use for which it is intended.

3.7.1. PPE constituent materials and other components

Constituent materials and other components suitable for protection against cold must possess a coefficient of transmission of incident thermal flux as low as required under the foreseeable conditions of use. Flexible materials and other components of PPE intended for use in a low-temperature environment must retain the degree of flexibility required for the necessary gestures and postures.

PPE materials and other components which may be splashed by  cold products must also possess sufficient mechanical-impact absorbency (see 3.1).

3.7.2. *Complete PPE ready for use*

Under the foreseeable conditions of use the following requirements apply:

- (a) the flux transmitted by PPE to the user must be sufficiently low to prevent the cold accumulated during wear at any point on the part of the body being protected, including the tips of fingers and toes in the case of hands or feet, from attaining, under any circumstances, the pain or health-impairment threshold;
- (b) PPE must as far as possible prevent the penetration of such liquids as rain water and must not cause injuries resulting from contact between its cold protective integument and the user.

If PPE incorporates a breathing device, this must adequately fulfil the protective function assigned to it under the foreseeable conditions of use.

The manufacturer's instructions accompanying PPE intended for brief use in low-temperature environments must provide all relevant data concerning the maximum permissible user exposure to the cold transmitted by the equipment.

3.8. Protection against electric shock

3.8.1. Insulating equipment

PPE designed to protect all or part of the body against the effects of electric current must be sufficiently insulated against the voltages to which the user is likely to be exposed under the most unfavourable foreseeable conditions.

To this end, the constituent materials and other components of these types of PPE must be so chosen or designed and incorporated as to ensure that the leakage current measured through the protective integument under test conditions at voltages correlated with those likely to be encountered in situ is minimized and, at all events, below a maximum conventional permissible value which correlates with the tolerance threshold.

Together with their packaging, PPE types intended exclusively for use during work or activities in electrical installations which are or may be under tension must bear markings indicating, in particular, their protection class or corresponding operating voltage, their serial number and their date of manufacture; a space must also be provided outside the protective integument of such PPE for the subsequent inscription of the date of entry into service and those of the periodic tests or inspections to be conducted.

The manufacturer's instructions must indicate, in particular, the exclusive use for which these PPE types are intended and the nature and frequency of the dielectric tests to which they are to be subjected during their useful life.

3.8.2. *Conductive equipment*

Conductive PPE intended for live working at high voltages shall be designed and manufactured to ensure that there is no difference of potential between the user and the installations on which he is intervening.

3.9. **Radiation protection**

3.9.1. *Non-ionizing radiation*

PPE designed to prevent acute or chronic eye-damage from sources of non-ionizing radiation must be capable of absorbing or reflecting the majority of the energy radiated in the harmful wavelengths without unduly affecting the transmission of the innocuous part of the visible spectrum, the perception of contrasts and the ability to distinguish colours where required by the foreseeable conditions of use.

To this end, *eye* protective **equipment** must be so designed and manufactured as to possess, for each harmful wave length, a spectral transmission factor such that the radiant-energy illumination density capable of reaching the user's eye through the filter is minimized and, under no circumstances, exceeds the maximum permissible exposure value. ***PPE designed to protect the skin against non-ionizing radiation must be capable of absorbing or reflecting the majority of the energy radiated in the harmful wavelengths.***

Furthermore, the glasses must not deteriorate or lose their properties as a result of the effects of radiation emitted under the foreseeable conditions of use and all marketed specimens must bear the protection-factor number corresponding to the spectral distribution curve of their transmission factor.

Glasses suitable for radiation sources of the same type must be classified in the ascending order of their protection factors and the manufacturer's instructions must indicate, in particular, how to select the appropriate PPE taking into account the relevant conditions of use such as the distance from the source and the spectral distribution of the energy radiated at that distance.

The relevant protection factor number must be marked on all specimens of filtering *eye protective equipment* by the manufacturer.

3.9.2. *Ionizing radiation*

3.9.2.1. Protection against external radioactive contamination

PPE constituent materials and other components designed to protect all or part of the body against radioactive dust, gases, liquids or mixtures thereof must be so chosen or designed and incorporated as to ensure that this equipment effectively prevents the penetration of the contaminants under the foreseeable conditions of use.

Depending on the nature or condition of these contaminants, the necessary leak-tightness can be provided by the impermeability of the protective integument and/or by any other appropriate means, such as ventilation and pressurization systems designed to prevent the back-scattering of these contaminants.

Any decontamination measures to which PPE is subject must not prejudice its possible re-use during the foreseeable useful life of these types of equipment.

3.9.2.2. Protection against external irradiation

PPE intended to provide complete user protection against external irradiation or, failing this, adequate attenuation thereof, must be designed to counter only weak electron (e. g. beta) or weak photon (e. g. X, gamma) radiation.

The constituent materials and other components of these types of PPE must be so chosen or designed and incorporated as to provide the degree of user protection required by the foreseeable conditions of use without leading to an increase in exposure time as a result of the impedance of user gestures, posture or movement (see 1.3.2).

PPE must bear a mark indicating the type and equivalent thickness of the constituent material(s) suitable for the foreseeable conditions of use.

3.10. Protection against H -substances and *mixtures which are hazardous to health and against harmful biological agents*

3.10.1. Respiratory protection

PPE intended for the protection of the respiratory system must make it possible to supply the user with breathable air when exposed to a polluted atmosphere and/or an atmosphere having an inadequate oxygen concentration.

The breathable air supplied to the user by the PPE must be obtained by appropriate means, for example after filtration of the polluted air through the protective equipment or by supply from an external unpolluted source.

The constituent materials and other components of these types of PPE must be chosen or designed and incorporated to ensure appropriate user respiration and respiratory hygiene for the period of wear concerned under the foreseeable conditions of use.

The leak-tightness of the facepiece and the pressure drop on inspiration and, in the case of the filtering devices, purification capacity must keep contaminant penetration from a polluted atmosphere low enough not to be prejudicial to the health or hygiene of the user.

The PPE must bear— details of the specific characteristics of the equipment which, in conjunction with the instructions, enable a trained and qualified user to employ the PPE correctly.

In the case of filtering equipment, the manufacturer's instructions must also, indicate the time limit for the storage of new filters kept in their original packaging.

3.10.2. Protection against cutaneous and ocular contact

PPE intended to prevent the surface contact of all or part of the body with— substances and ***mixtures which are hazardous to health or harmful biological*** agents must be capable of preventing the penetration or permeation of such substances and ***mixtures and*** agents through the protective integument under the foreseeable conditions of use for which the PPE is intended.

To this end, the constituent materials and other components of these types of PPE must be chosen or designed and incorporated to ensure, as far as possible, complete leak-tightness, which will allow where necessary prolonged daily use or, failing this, limited leak-tightness necessitating a restriction of the period of wear.

Where, by virtue of their nature and the foreseeable conditions of their use, certain **■**-substances *and mixtures which are hazardous to health or harmful biological* agents possess high penetrative power which limits the duration of the protection provided by the PPE in question, the latter must be subjected to standard tests with a view to their classification on the basis of their performance. PPE which is considered to be in conformity with the test specifications must bear a marking indicating, in particular, the names or, failing this, the codes of the substances used in the tests and the corresponding standard period of protection. The manufacturer's instructions must also contain, in particular, an explanation of the codes (if necessary), a detailed description of the standard tests and all appropriate information for the determination of the maximum permissible period of wear under the different foreseeable conditions of use.

3.11. Diving equipment

The breathing equipment must make it possible to supply the user with a breathable gaseous mixture, under foreseeable conditions of use and taking account in particular of the maximum depth of immersion.

Where the foreseeable conditions of use so require, the diving equipment must comprise the following:

- (a) a suit which protects the user against cold (see 3.7) *and/or pressure resulting from the depth of immersion (see 3.2.)*;
- (b) an alarm designed to give the user prompt warning of an approaching failure in the supply of breathable gaseous mixture (see 2.8);
- (c) a life-saving device enabling the user to return to the surface (*see 3.4.1.*).

ANNEX III

Technical documentation for PPE

The technical documentation shall specify the means used by the manufacturer to ensure the conformity of the PPE with the applicable essential health and safety requirements referred to in Article 5 and set out in Annex II.

The technical documentation shall include at least the following elements:

1. a complete description of the PPE and of its intended use;
2. an assessment of the risk(s) against which the PPE is intended to protect;
3. a list of the essential health and safety requirements that are applicable to the PPE;
4. design and manufacturing drawings and schemes of the PPE and of its components, sub-assemblies, and circuits;
5. the descriptions and explanations necessary for the understanding of the drawings and schemes referred to in point 4 and of the operation of the PPE;
6. the reference(s) of the harmonised standard(s) referred to in Article 14 that have been applied for the design and manufacture of the PPE; in the event of partial application of harmonised standards, the documentation shall specify the parts which have been applied;

7. where harmonised standards have not been applied or only partially applied, descriptions of the other technical specifications that have been applied in order to satisfy the applicable essential health and safety requirements;
8. the results of the design calculations, inspections and examinations carried out to verify the conformity of the PPE with the applicable essential health and safety requirements;
9. reports on the tests carried out to verify the conformity of the PPE with the applicable essential health and safety requirements and, where appropriate, to establish the relevant protection class;
10. a description of the means used by the manufacturer during the production of the PPE to ensure the conformity of the PPE produced with the design specifications;
11. a copy of the manufacturer's instructions *and information set out* in point 1.4 of Annex II;
12. for ~~■~~ PPE *produced as a single unit to fit an individual user*, all the necessary instructions ~~■~~ for manufacturing *such* PPE on the basis of the approved basic model.
13. *for PPE produced in series where each item is adapted to fit an individual user a description of the measures to be taken by the manufacturer during the fitting and production process to ensure that each item of PPE complies with the approved type and with the applicable essential health and safety requirements.*

ANNEX IV

Internal production control

(Module A)

1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 4, and ensures and declares on his sole responsibility that the PPE concerned satisfies the applicable ~~■~~ requirements *of this Regulation*.

2. Technical documentation

The manufacturer shall establish the technical documentation described in Annex III ~~■~~.

3. Manufacturing

The manufacturer shall take all measures necessary so that the manufacturing process and its monitoring ensure compliance of the manufactured PPE with the technical documentation referred to in point 2 and with the applicable ~~■~~ requirements *of this Regulation*.

4. CE marking and EU declaration of conformity

4.1. The manufacturer shall affix the CE marking to each individual PPE that satisfies the applicable ~~■~~ requirements *of this Regulation*.

- 4.2. The manufacturer shall draw up a written EU declaration of conformity for a PPE model and keep it together with the technical documentation at the disposal of the national authorities for 10 years after the PPE has been placed on the market. The EU declaration of conformity shall identify the PPE for which it has been drawn up.

A copy of the EU declaration of conformity *shall be made available to the relevant authorities upon request.*

5. Authorised representative

The manufacturer's obligations set out in point 4 may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.

ANNEX V

EU type-examination

(Module B)

1. EU type-examination is the part of a conformity assessment procedure in which a notified body examines the technical design of PPE and verifies and attests that the technical design of the PPE meets the ~~the~~ requirements *of this Regulation*.
2. EU type-examination shall be carried out *by assessment of the adequacy of the technical design of the PPE through examination of the technical documentation, plus* examination of a specimen, representative of the production envisaged, of the complete PPE (production type).

3. Application for EU type-examination

The manufacturer shall lodge an application for EU type-examination with a single notified body of his choice.

The application shall include:

- (a) the name and address of the manufacturer and, if the application is lodged by the authorised representative, his name and address as well;

- (b) a written declaration that the same application has not been lodged with any other notified body;
- (c) the technical documentation described in Annex III. ~~■~~
- (d) the specimen(s) of the PPE representative of the production envisaged. The notified body may request further specimens if needed for carrying out the test programme. For *PPE produced in series where each item is adapted to fit an individual user*, specimens shall be provided that are representative of the range of different users, *for PPE produced as a single unit to accommodate the special needs of an individual user, a basic model shall be provided*;

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4. EU type-examination

The notified body shall:

- (a) examine the technical documentation to assess the adequacy of the technical design of the PPE; *in doing so, point 10 of Annex III need not to be taken into account.*
- (b) for *PPE produced in series where each item is adapted to fit an individual user*, examine the description of the measures ~~■~~ to assess their adequacy;

- (c) for **■**-PPE *produced as a single unit to fit an individual user*, examine the instructions **■**-for manufacturing *such* PPE on the basis of the approved basic model to assess their adequacy;
- (d) verify that the specimen(s) have been manufactured in conformity with the technical documentation, and identify the elements which have been designed in accordance with the applicable provisions of the relevant harmonised standards as well as the elements which have been designed in accordance with other technical specifications;
- (e) carry out appropriate examinations and tests, or have them carried out, to check whether, where the manufacturer has chosen to apply the solutions in the relevant harmonised standards, these have been applied correctly;
- (f) carry out appropriate examinations and tests, or have them carried out, to check whether, where the solutions in the relevant harmonised standards have not been applied, the solutions adopted by the manufacturer, including those in other technical specifications applied, meet the corresponding essential health and safety requirements and have been applied correctly.

5. Evaluation report

The notified body shall draw up an evaluation report that records the activities undertaken in accordance with point 4 and their outcomes. Without prejudice to its obligations vis-à-vis the notifying authorities, the notified body shall release the content of that report, in full or in part, only with the agreement of the manufacturer.

6. EU type-examination certificate

6.1. Where the type meets the applicable essential health and safety requirements, the notified body shall issue an EU type-examination certificate to the manufacturer.

The period of validity of a newly issued certificate and, where appropriate, of a renewed certificate shall be not more than five years.

6.2. That certificate shall contain at least the following information:

- (a) the name and identification number of the notified body;
- (b) the name and address of the manufacturer and, if the application is lodged by the authorised representative, his name and address;

- (c) identification of the PPE covered by the certificate (*type number*);
 - (d) a statement that the PPE *type* complies with the applicable essential health and safety requirements referred to in Article 5 and set out in Annex II;
 - (e) where harmonised standards have been fully or partially applied, the references of those standards or parts thereof;
 - (f) where other technical specifications have been applied, their references;
 - (g) where applicable, the performance level(s) or protection class of the PPE;
 - (h) for ~~II~~ PPE *produced as a single unit to fit an individual user*, the range of permissible variations of relevant parameters ~~II~~-based on the approved basic model;
 - (i) the date of issue, *the date of expiry* and, where appropriate, the date(s) of renewal;
- ~~II~~
- (j) any conditions attached to the issue of the certificate;
 - (k) for category III PPE, a statement that the certificate shall only be used in conjunction with one of the conformity assessment procedures referred to in Article *19 point (c)*.

6.3. The EU type-examination certificate may have one or more annexes attached.

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6.4. Where the type does not satisfy the applicable essential health and safety requirements, the notified body shall refuse to issue an EU type-examination certificate and shall inform the applicant accordingly, giving detailed reasons for its refusal.

7. Review of the EU type-examination certificate

7.1. The notified body shall keep itself apprised of any changes in the generally acknowledged state of the art which indicate that the approved type may no longer comply with the applicable essential health and safety requirements, and shall determine whether such changes require further investigation. If so, the notified body shall inform the manufacturer accordingly.

7.2. The manufacturer shall inform the notified body that holds the technical documentation relating to the EU type-examination certificate of all modifications to the approved type ***and of all modifications of the technical documentation*** that may affect the conformity of the PPE with the applicable essential health and safety requirements or the conditions for validity of that certificate. Such modifications shall require additional approval in the form of an addition to the original EU type-examination certificate.

- 7.3. The manufacturer shall ensure that the PPE continues to fulfil the applicable essential health and safety requirements in light of the state of the art.
- 7.4. The manufacturer shall ask the notified body to review the EU type-examination certificate *either*:
- (a) in case of a modification to the *approved type* referred to in point 7.2;
 - (b) in case of a change in the state of the art referred to in point 7.3;
 - (c) at the latest, before the date of expiry of the certificate.

In order to allow the notified body to fulfil its tasks the manufacturer shall submit his application at the earliest 12 months before and at the latest 6 months prior to the expiry date of the EU type-examination certificate.

- 7.5. The notified body shall examine the PPE *type and, where necessary in the light of the changes made*, carry out *the relevant* tests **I**—to ensure that the *approved type* continues to fulfil the applicable essential health and safety requirements. *If the notified body is satisfied that the approved type continue to fulfil the applicable health and safety requirements*, it shall renew the EU type-examination certificate. *The notified body shall ensure that the review procedure is finalised before the expiry date of the EU type-examination certificate.*
- 7.6. *Where the conditions referred to in points (a) and (b) of point 7.4 are not met, a simplified review procedure shall apply. The manufacturer shall supply the notified body with the following:*
- (a) *his name and address and data identifying the EU type-examination certificate concerned;*
 - (b) *confirmation that there has been no modification to the approved type as referred to in point 7.2, including materials, sub-components or sub-assemblies, nor to the relevant harmonised standards or other technical specifications applied;*
 - (c) *confirmation that there has been no change in the state of the art as referred to in point 7.3;*
 - (d) *where not already supplied, copies of current product drawings and photographs, product marking and information supplied by the manufacturer; and*

- (e) *for category III products, where not already available to the notified body, information on the results of the supervised product checks at random intervals carried out in accordance with Annex VII, or on the results of audits of his quality system carried out in accordance with Annex VIII.*

When the notified body has confirmed that no modification to the approved type referred to in point 7.2. and no change in the state of the art referred to in point 7.3 has occurred, the simplified review procedure shall be applied and the examinations and tests referred to in point 7.5 shall not be carried out, and the notified body shall renew the EU-type examination certificate.

The costs associated with that renewal shall be proportionate to the administrative burden of the simplified procedure.

If the notified body finds that a change in the state of the art referred to in point 7.3 has occurred, the procedure in point 7.5 shall apply.

- 7.7. If, following the review, the notified body concludes that the EU type-examination certificate is no longer valid, the body shall withdraw it and the manufacturer shall cease the placing on the market of the PPE concerned.
8. **Each** notified body shall inform its notifying authority concerning the EU type-examination certificates and/or any additions thereto which it has issued or withdrawn, and shall, periodically or upon request, make available to its notifying authority the list of such certificates and/or any additions thereto refused, suspended or otherwise restricted.

Each notified body shall inform the other notified bodies concerning the EU type-examination certificates and/or any additions thereto which it has refused, withdrawn, suspended or otherwise restricted, and, upon request, concerning such certificates and/or additions thereto which it has issued.

The Commission, the Member States and the other notified bodies may, on request, obtain a copy of the EU type-examination certificates and/or additions thereto. On a reasoned request, the Commission and the Member States may obtain a copy of the technical documentation and the results of the examinations carried out by the notified body.

The notified body shall keep a copy of the EU type-examination certificate, its annexes and additions, as well as the technical file including the documentation submitted by the manufacturer, until 5 years after the expiry of the validity of that certificate.

9. The manufacturer shall keep a copy of the EU type-examination certificate, its annexes and additions together with the technical documentation at the disposal of the national authorities for 10 years after the PPE has been placed on the market.
10. The manufacturer's authorised representative may lodge the application referred to in point 3 and fulfil the obligations set out in points 7.2, 7.4 and 9, provided that they are specified in the mandate.

ANNEX VI

Conformity to type based on internal production control

(Module C)

1. Conformity to type based on internal production control is the part of a conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2 and 3, and ensures and declares under his sole responsibility that the PPE concerned is in conformity with the type described in the EU type-examination certificate and satisfies the applicable ~~■~~requirements *of this Regulation*.

2. Manufacturing

The manufacturer shall take all measures necessary so that the manufacturing process and its monitoring ensure conformity of the manufactured PPE with the type described in the EU type-examination certificate and with the applicable ~~■~~ requirements *of this Regulation*.

~~■~~

3. CE marking and EU declaration of conformity

3.1. The manufacturer shall affix the CE marking to each individual PPE that is in conformity with the type described in the EU type-examination certificate and satisfies the applicable ~~■~~requirements *of this Regulation*.

- 3.2. The manufacturer shall draw up a written EU declaration of conformity for a PPE model and keep it at the disposal of the national authorities for 10 years after the PPE has been placed on the market. The EU declaration of conformity shall identify the PPE for which it has been drawn up.

A copy of the EU declaration of conformity *shall be made available to the relevant authorities upon request.*

4. Authorised representative

The manufacturer's obligations set out in point 3 may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.

ANNEX VII

Conformity to type based on *internal production control plus supervised product checks at random intervals*

(Module C 2)

1. Conformity to type based on *internal production control plus supervised product checks at random intervals* is the part of a conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3, 5.2 and 6, and ensures and declares on his sole responsibility that the PPE, which has been subject to the provisions of point 4, is in conformity with the type described in the EU type-examination certificate and satisfies the applicable ~~■~~ requirements *of this Regulation*.

2. Manufacturing

The manufacturer shall take all measures necessary so that the manufacturing process and its monitoring ensure the homogeneity of production and conformity of the manufactured PPE with the type described in the EU type-examination certificate and with the applicable ~~■~~ requirements *of this Regulation*.

3. Application for *supervised* product *checks at random intervals*

Before placing PPE on the market, the manufacturer shall lodge an application for *supervised* product *checks at random intervals* with a single notified body of his choice.

The application shall include the following:

- (a) the name and address of the manufacturer and, if the application is lodged by the authorised representative, his name and address;
- (b) a written declaration that the same application has not been lodged with any other notified body;
- (c) the identification of the PPE concerned.

Where the chosen body is not the body that has carried out the EU type-examination, the application shall also include the following:

- (a) the technical documentation described in Annex III;
- (b) a copy of the EU type-examination certificate.

4. ***Product checks***

- 4.1. The notified body shall carry out ***product checks*** in order to ***verify*** the homogeneity of production and the conformity of the PPE with the type described in the EU type-examination certificate and with the applicable essential health and safety requirements.
- 4.2. The ***product checks*** shall be carried out at least once a year, at random intervals determined by the notified body. The first ***product checks*** shall be carried out no more than one year after the date of issue of the EU type-examination certificate.
- 4.3. An adequate ***statistical*** sample of the manufactured PPE shall be selected by the notified body at a place agreed between the body and the manufacturer. All items of PPE of the sample shall be examined and appropriate tests set out in the relevant harmonised standard(s) and/or equivalent tests set out in other relevant technical specifications shall be carried out in order to verify the conformity of the PPE with the type described in the EU type-examination certificate and with the applicable essential health and safety requirements.

- 4.4. Where the notified body referred to in point 3 is not the body that issued the relevant EU type-examination certificate, it shall contact that body in the event of difficulties in connection with the assessment of the conformity of the sample.
- 4.5. ***The acceptance sampling procedure to be applied is intended to determine whether the manufacturing process ensures the homogeneity of production and performs within acceptable limits, with a view to ensuring conformity of the PPE.***
- 4.6. If the examination and testing reveal that the production is not homogeneous or that the PPE does not comply with the type described in the EU type-examination certificate or with the applicable essential health and safety requirements, the notified body shall take measures appropriate to the fault(s) recorded and inform the notifying authority thereof.
5. Test report
- 5.1. The notified body shall provide the manufacturer with a test report **+**.
- 5.2. The manufacturer shall keep the test report at the disposal of the national authorities for 10 years after the PPE has been placed on the market.
- 5.3. ***The manufacturer shall under the responsibility of the notified body affix the notified body's identification number during the manufacturing process.***

6. CE marking and EU declaration of conformity

- 6.1. The manufacturer shall affix the CE marking, and, ***under the responsibility*** of the notified body referred to in point 3, the latter's identification number to each individual PPE that is in conformity with the type described in the EU type-examination certificate and satisfy the applicable **■**-requirements ***of this Regulation***.
- 6.2. The manufacturer shall draw up a written EU declaration of conformity for each PPE model and keep it at the disposal of the national authorities for 10 years after the PPE has been placed on the market. The EU declaration of conformity shall identify the PPE model for which it has been drawn up.

A copy of the EU declaration of conformity ***shall be made available to the relevant authorities upon request***.

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7. Authorised representative

The manufacturer's obligations may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate. An authorised representative may not fulfil the manufacturer's obligations set out in point 2.

ANNEX VIII

Conformity to type based on quality assurance of the production process

(Module D)

1. Conformity to type based on quality assurance of the production process is the part of a conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 5 and 6, and ensures and declares on his sole responsibility that the PPE concerned is in conformity with the type described in the EU type-examination certificate and satisfies the applicable **■**-requirements *of this Regulation*.

2. Manufacturing

The manufacturer shall operate an approved quality system for production, final product inspection and testing of the PPE concerned as specified in point 3, and shall be subject to surveillance as specified in point 4.

3. Quality system

- 3.1. The manufacturer shall lodge an application for assessment of his quality system with a single notified body of his choice.

The application shall include:

- (a) the name and address of the manufacturer and, if the application is lodged by the authorised representative, his name and address *as well*;
- (b) *the address of the manufacturer's premises, where the audits can be carried out*
- (c) a written declaration that the same application has not been lodged with any other notified body;
- (d) the identification of the PPE concerned;
- (e) the documentation concerning the quality system.

Where the chosen body is not the body that has carried out the EU type-examination, the application shall also include the following:

- (a) the technical documentation of the PPE described in Annex III;
- (b) a copy of the EU type-examination certificate.

3.2. The quality system shall ensure that the PPE is in conformity with the type described in the EU type-examination certificate and *complies with* the applicable **■**requirements *of this Regulation*.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documentation shall permit a consistent interpretation of the quality programmes, plans, manuals and records.

■It shall, in particular, contain an adequate description of:

- (a) the quality objectives and the organisational structure, responsibilities and powers of the management with regard to product quality;
- (b) the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used;
- (c) the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out;
- (d) the quality records, such as inspection reports and test data, calibration data, qualification reports on the personnel concerned, etc., and
- (e) the means of monitoring the achievement of the required product quality and the effective operation of the quality system.

3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2.

It shall presume conformity with those requirements in respect of the elements of the quality system that comply with the corresponding specifications of the relevant harmonised standards.

In addition to experience in quality management systems, the auditing team shall have at least one member with experience of evaluation in the field of PPE and technology concerned, and knowledge of the applicable essential health and safety requirements. The audit shall include an assessment visit to the manufacturer's premises. The auditing team shall review the technical documentation of the PPE referred to in point 3.1 to verify the manufacturer's ability to identify the applicable essential health and safety requirements and to carry out the necessary examinations with a view to ensuring conformity of the PPE with those requirements.

The result of that assessment shall be notified to the manufacturer. The notification shall contain the conclusions of the audit and the reasoned assessment decision.

3.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to maintain it so that it remains adequate and efficient.

3.5. The manufacturer shall keep the notified body that has approved the quality system informed of any intended change to the quality system.

The notified body shall evaluate any proposed changes and decide whether the modified quality system will continue to satisfy the requirements referred to in point 3.2 or whether a reassessment is necessary.

It shall notify the manufacturer of its decision. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

3.6. The notified body shall authorise the manufacturer to affix the notified body's identification number to each individual PPE that is in conformity with the type described in the EU type-examination certificate and satisfy the applicable **■**-requirements *of this Regulation*.

4. Surveillance under the responsibility of the notified body

4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

- 4.2. The manufacturer shall, for assessment purposes, allow the notified body access to the manufacture, inspection, testing and storage sites and shall provide it with all necessary information, in particular:
- (a) the quality system documentation;
 - (b) the quality records, such as inspection reports and test data, calibration data, qualification reports on the personnel concerned.
- 4.3. The notified body shall carry out periodic audits, at least once a year, to make sure that the manufacturer maintains and applies the quality system and shall provide the manufacturer with an audit report.
- 4.4. In addition, the notified body may pay unexpected visits to the manufacturer. During such visits the notified body may, if necessary, carry out examinations or tests of the PPE, or have them carried out, in order to verify that the quality system is functioning correctly. The notified body shall provide the manufacturer with a visit report and, if tests have been carried out, with a test report.

5. CE marking and EU declaration of conformity
- 5.1. The manufacturer shall affix the CE marking, and, ***under the responsibility*** of the notified body referred to in point 3.1, the latter's identification number to each individual PPE that is in conformity with the type described in the EU type-examination certificate and satisfy the applicable ~~■~~requirements ***of this Regulation***.
- 5.2. The manufacturer shall draw up a written EU declaration of conformity for each PPE model and keep it at the disposal of the national authorities for 10 years after the product has been placed on the market. The EU declaration of conformity shall identify the PPE model for which it has been drawn up.
- A copy of the EU declaration of conformity ***shall be made available to the relevant authorities upon request***.
6. The manufacturer shall, for a period ending 10 years after the PPE has been placed on the market, keep at the disposal of the national authorities:
- (a) the documentation referred to in point 3.1;

- (b) the information related to the change referred to in point 3.5, as approved;
- (c) the decisions and reports of the notified body referred to in points 3.5, 4.3 and 4.4.

7. The notified body shall inform its notifying authority of quality system approvals issued or withdrawn, and shall, periodically or upon request, make available to its notifying authority the list of such quality system approvals refused, suspended or otherwise restricted.

The notified body shall inform the other notified bodies of quality system approvals which it has refused, suspended, withdrawn or otherwise restricted, and, upon request, of such quality system approvals which it has issued.

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8. Authorised representative

The manufacturer's obligations set out in points 3.1, 3.5, 5 and 6 may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.

ANNEX IX

EU declaration of conformity *No XXXX*⁸

1. PPE (product, *type*, batch, or serial number):
2. Name and address of the manufacturer *and, where applicable*, his authorised representative :
3. This declaration of conformity is issued under the sole responsibility of the manufacturer:
4. Object of the declaration (identification of PPE allowing traceability; it may, where necessary for the identification of the PPE, include a colour image of sufficient clarity):
5. The object of the declaration described in point 4 is in conformity with the relevant Union harmonisation legislation:
6. References to the relevant harmonised standards *used*, including the date of the standard, or references to the other technical specifications, including the date of the specification, in relation to which conformity is declared:

⁸ *It is optional for the manufacturer to assign a number to the declaration of conformity.*

7. Where applicable, the notified body ... (name, number)... performed the EU type-examination (Module B) and issued the EU type-examination certificate ... (reference to that certificate).
8. Where applicable, the PPE is subject to the conformity assessment procedure ... (either (Conformity to type based on *internal production control plus supervised product checks at random intervals* (Module C 2)) or (Conformity to type based on quality assurance of the production process (Module D)) ... under surveillance of the notified body ... (name, number).

9. Additional Information:

Signed for and on behalf of:

(place and date of issue):

(name, function) (signature):

ANNEX X

CORRELATION TABLE

Directive 89/686/EEC	This Regulation
Article 1(1)	Articles 1 and 2(1)
Article 1(2) and (3)	Article 3(1)
Article 1(4)	Article 2(2) and (3)
Article 2(1)	Article 4
Article 2(2)	Article 6
Article 2(3)	Article 7(2)
Article 3	Article 5
Article 4(1)	Article 7(1)
Article 4(2)	—
Article 5(1), (4), (5), (6)	—
Article 5(2)	Article 14
Article 6	Article 44
Article 7	—
Article 8(1)	Article 8(2) first subparagraph
Article 8(2) – (4)	Articles 18 and 19 and Annex I

Directive 89/686/EEC	This Regulation
Article 9	Articles 20, 24(1), 25, and 30(1)
Article 10	Annex V
Article 11(A)	Annex VII
Article 11(B)	Annex VIII
Article 12(1)	Article 15
Articles 12(2) and 13	Article 16
Article 14	—
Article 15	—
Article 16	—
Annex I	Article 2(2)
Annex II	Annex II
Annex III	Annex III
Annex IV	Article 16
Annex V	Article 24(2) – (11)
Annex VI	Annex IX