

Decision No. 1/2009

of the Committee established under the Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment on the inclusion in Annex 1 of a new Chapter 17 on Lifts and on the amendment of Chapter 1 on Machinery

THE COMMITTEE,

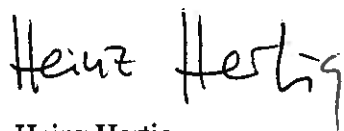
Having regard to the Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment ("the Agreement") and in particular Articles 10(4), 10(5) and 18(2) thereof;

- (1) Whereas the European Union has adopted a new machinery directive¹ and Switzerland has amended its legislative, regulatory and administrative provisions deemed equivalent under Article 1(2) of the Agreement to the above mentioned European Union legislation.
- (2) Whereas Chapter 1, Machinery, of Annex 1 should be amended to reflect these developments.
- (3) Whereas according to Article 10(5), the Committee may modify the Annexes to this Agreement,

HAS DECIDED AS FOLLOWS:

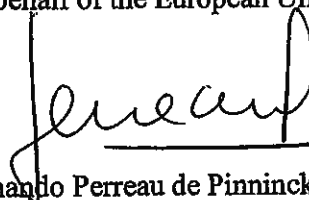
1. Annex 1 on Product Sectors to the Agreement is modified in order to include a new Chapter 17 on Lifts in accordance with the provisions set out in Attachment A annexed to this Decision.
2. Chapter 1, Machinery, of Annex 1 to the Agreement is amended in accordance with the provisions set out in Attachment B annexed to this Decision. This amendment becomes effective from 29 December 2009.
3. This Decision, done in duplicate, shall be signed by representatives of the Committee who are authorized to act on behalf of the Parties. This Decision shall be effective from the date of the latter of these signatures.

On behalf of the Swiss Confederation



Heinz Hertig

On behalf of the European Union



Fernando Perreau de Pinninck

Signed in Bern on 21/12/09

Signed in Brussels on 18/12/09

¹ Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery and amending Directive 95/16/EC (recast) (OJ L 157, 9.6.2006, p. 24).

ATTACHMENT A

In Annex 1, Product Sectors, the following Chapter 17 on Lifts shall be introduced:

CHAPTER 17

LIFTS

SECTION I

LEGISLATIVE, REGULATORY AND ADMINISTRATIVE PROVISIONS

Provisions covered by Article 1(2)

European Union	1.	European Parliament and Council Directive 95/16/EC of 29 June 1995 on the approximation of the laws of the Member States relating to lifts (OJ L 213, 07.09.1995, p. 1).
Switzerland	100.	Federal Law of 19 March 1976 on the safety of technical installations and equipment (RO 1977 2370), as last amended on 17 June 2005 (RO 2006 2197).
	101.	Ordinance of 23 June 1999 on the safety of lifts (RO 1999 1875), as last amended on 17 August 2005 (RO 2005 4265).

SECTION II

CONFORMITY ASSESSMENT BODIES

The Committee established under Article 10 of this Agreement shall draw up and keep up to date, according to the procedure described in Article 11 of the Agreement, a list of the conformity assessment bodies.

SECTION III

DESIGNATING AUTHORITIES

The Committee established under Article 10 of this Agreement shall draw up and keep up to date a list of the designating authorities notified by the Parties.

SECTION IV

SPECIAL RULES RELATING TO THE DESIGNATION OF CONFORMITY

ASSESSMENT BODIES

For the designation of conformity assessment bodies, the designating authorities shall comply with the general principles contained in Annex 2 to this Agreement and the assessment criteria set out in Annex VII to Directive 95/16/EC.

SECTION V

SUPPLEMENTARY PROVISIONS

1. Information exchange

In accordance with Article 8(3) of Directive 95/16/EC, the European Commission, the authorities listed in section III and the conformity assessment bodies recognised under this Agreement may, on request, obtain from the installer a copy of the declaration of conformity and reports of the tests carried out in the final inspection.

In accordance with Annex V, points A 5 and B 5 of Directive 95/16/EC, they may obtain from the conformity assessment body which has issued the type-examination certificate, a copy of the certificate and, on a reasoned request, a copy of the technical dossier and reports of examinations, calculations and tests carried out.

In accordance with Annex V, points A 7 and B 7 of Directive 95/16/EC, the conformity assessment bodies which have issued type-examination certificates must communicate to the Member States, Switzerland and the other conformity assessment bodies the relevant information concerning the type-examination certificates they have issued or withdrawn.

In accordance with point 6 of Annexes VIII, IX, XII, XIII et XIV of Directive 95/16/EC, the conformity assessment bodies recognised under this Agreement must forward to the other conformity assessment bodies the relevant information concerning the quality assurance system approvals issued or withdrawn.

In the cases referred to in Article 8.2 (i), (ii) and (iii) of Directive 95/16/EC, the person responsible for the design of the lift must supply to the person responsible for the construction, installation and testing of the lift all necessary documents and information for the latter to be able to operate in absolute security.

2. Technical documentation

It shall be sufficient for manufacturer of a safety component, his authorised representative established in the Union or in Switzerland or, where neither of these is present, the person responsible for placing its safety components on the market to keep with the technical documentation a copy of the declaration of conformity and their additions (as the case may be) required by the national authorities for inspection purposes at their disposal in the territory of one of the Parties) for at least ten years from the date on which the safety component was last manufactured.

It shall be sufficient for the installer of the lift to keep with the technical documentation a copy of the declaration of conformity and their additions and the final inspection certificate (if needed) for 10 years from the date on which the lift was placed on the market.

Where the installer is not established in the Union or in Switzerland, this obligation falls to the relevant notified body.

The Parties hereby undertake to forward all relevant technical documents at the request of the authorities of the other Party.

3. Market surveillance

The Parties shall notify each other of the authorities established on their territory responsible for carrying out the surveillance tasks involved in the implementation of their legislation as set out in Section I.

The Parties shall notify each other of their market surveillance activities within the bodies designated for this purpose.

ATTACHMENT B

In Annex 1, Chapter 1, Machinery, the text should be deleted and replaced by the following one, which shall be effective from 29 December 2009 when the new Machinery Directive becomes applicable.

CHAPTER 1

MACHINERY

SECTION I

LEGISLATIVE, REGULATORY AND ADMINISTRATIVE PROVISIONS

Provisions covered by Article 1(2)

European Union	1.	Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery and amending Directive 95/16/EC (recast) (OJ L 157, 9.6.2006, p. 24-86).
Switzerland	100.	Federal Law of 19 March 1976 on the safety of technical installations and equipment (RO 1977 2370), as last amended on 18 June 1993 (RO 1995 2766).
	101.	Ordinance of 12 June 1995 on the safety of technical installations and equipment (RO 1995 2770), as last amended on 27 March 2002 (RO 2002 853).
	102.	Ordinance of 2 April 2008 on the safety of machinery (RO 2008 1785).

SECTION II

CONFORMITY ASSESSMENT BODIES

The Committee established under Article 10 of this Agreement shall draw up and keep up to date, according to the procedure described in Article 11 of the Agreement, a list of the conformity assessment bodies.

SECTION III

DESIGNATING AUTHORITIES

The Committee established under Article 10 of this Agreement shall draw up and keep up to date a list of the designating authorities notified by the Parties.

SECTION IV

SPECIAL RULES RELATING TO THE DESIGNATION OF CONFORMITY ASSESSMENT BODIES

For the designation of conformity assessment bodies, the designating authorities shall comply with the general principles contained in Annex 2 to this Agreement and the assessment criteria set out in Annex XI to Directive 2006/42/EC.

SECTION V

SUPPLEMENTARY PROVISIONS

1. Second-hand machinery

The legislative, regulatory and administrative provisions listed in section I shall not apply to second-hand machinery.

The principle contained in Article 1 paragraph 2 of this Agreement shall apply, however, to machinery legally placed on the market and/or put into service in one of the Parties and exported as second-hand machinery to the market of the other Party.

The other provisions relating to second-hand machinery, e.g. those relating to safety in the place of work in force in the importing state, shall remain applicable.

2. Information exchange

In accordance with Article 9 of this Agreement, the Parties shall exchange information needed to ensure a proper implementation of this chapter.

The Parties hereby undertake to forward all relevant technical documents at the request of the authorities of the other Party.

3. Person named in the declaration of conformity of machines, authorised to compile the technical file

The declaration of conformity of the machinery must contain the name and address of the person authorised to compile the technical file, who must be established in the respective Parties' territory.

The Parties shall mutually recognise this person. The manufacturer, his authorised representatives or, where neither of these is present, the person responsible for placing products on the market of one Party, shall not be obliged to designate a person, who is responsible for compiling the technical file, in the territory of the other Party.