



From the Minister of State for Industry

DEPARTMENT OF TRADE AND INDUSTRY  
1-19 VICTORIA STREET  
LONDON SW1H 0ET

Telephone (Direct dialling) 01-215) 5186  
GTN 215) .....  
(Switchboard) 01-215 7877

*CCPC*

THE HON PETER MORRISON MP

*CYP*  
*3/2*

The Rt Hon John Biffen MP  
Lord Privy Seal  
Lord Privy Seal's Office  
68 Whitehall  
London  
SW1

28 February 1986

*See John*

**DEBATE ON DRAFT EC DIRECTIVE - POWERED INDUSTRIAL TRUCKS**

I enclose a memorandum covering a recommendation by the House of Commons Select Committee on European legislation for a debate on the draft Council directive on specifications for powered industrial trucks (Document 6893/79). There is some urgency to arrange the debate before the end of March and I hope we can take comments by correspondence.

The main points for consideration are the timing and location of the debate (Paragraphs 15 and 16 of the memorandum). The UK could well be isolated in blocking the proposal at the 18 March Internal Market Council.

It would therefore be helpful to have the debate before the end of March to give us time to consider our position at the next Council which will be soon afterwards on 8 April. Regarding location, I should like a debate on the floor of the House but in view of the urgency you may consider it necessary to take it in Standing Committee.

I am copying this letter to Geoffrey Howe, David Young, Nicholas Ridley, members of L and OD(E) Committees, Sir Robert Armstrong and the secretaries of L and OD(E).

*Peter Morrison*

**PETER MORRISON**

CONFIDENTIAL

February 1986

Specifications for powered industrial trucks -  
recommendation for debate by House of Commons

Memorandum by the Minister for Industry

Scrutiny Committee Recommendations

The House of Commons Select Committee on European Legislation has recommended that the European Commission's proposal (the Proposal) for a Council Directive on the approximation of the laws of the Member States relating to self-propelled industrial trucks raises questions of political importance and should be debated. The Committee withdrew their earlier opinion that the proposal was also of legal importance. This was, however, prior to the introduction in the Council Working Party of an amendment to the draft which would require the UK to relax an existing legal requirement. The Scrutiny Committee has been advised of this amendment.

1FRBGV

The House of Lords Select Committee on the European Communities debated an earlier draft of this proposal on 17 June 1980.

### Background

2. The purpose of the Directive is to remove non-tariff barriers to trade. The UK is a major manufacturer of powered industrial trucks both in European and World terms. Its 1984 exports to other EC Member States including parts totalled £48M whilst overall production for home and export exceeded £400m. Competing trucks are imported into the UK mainly from other Member States (particularly Germany), the USA, and Japan. Non-tariff barriers within the European Community continue to be identified by the British Industrial Truck Association (BITA) as a significant restraint on trade.

3. Most of the machines embraced by the title "powered industrial trucks" are used in industry and commerce for lifting and placing loads, and it is thus important that they are so designed as to minimise the possibility and ill consequence of accidents. The Proposal is concerned with construction and safety specifications for such trucks. It would provide for such trucks to be certified by their manufacturers as complying with the technical requirements set out in Annex 1 of the draft Directive and for this process to be supervised by Member States. The draft Directive is of the total harmonisation type which means that only those powered industrial trucks conforming to the Directive could be marketed within the EEC. New trucks made in the UK for use in the UK would need to conform but any trucks already in use within the United Kingdom would not be

required to do so. A number of separate appendices that deal with stability, noise measurement, visibility and dynamic and rolling tests will subsequently be annexed to the Directive.

4. What was originally of greatest concern to both Houses was the manner in which two clauses derived from 1979 French regulations were added to the Commission draft after the last meeting of the Commission Working Group, even though it was known that these additional requirements were opposed by most other Member States. The two clauses called for automotive-type pedal arrangements, and for removable fuel tanks. Both have been amended in subsequent negotiations at Council level. The fuel tank issue has been resolved to the satisfaction of all Member States; in practice few tanks will need to be removable. Agreement on the pedal arrangements remains elusive but the UK has recently become isolated from all other Member States.

5. The amendment referred to at paragraph 1 relates to a requirement in respect of a relatively small population of industrial trucks which have an elevating operator platform on which the worker stands to load and unload racking at some distance from the ground. The Factories Act currently requires the manufacturer to install a device to catch the platform if the primary lifting cables or chains should break. The Directive would remove this requirement and thus would reduce UK safety standards. As there is no UK experience of trucks not fitted with this safety device we do not know what increase in accidents might result, but other countries claim that the proposed new standard is satisfactory.

### Impact on UK Law

6. The draft Directive would require the introduction of new UK legislation so as to prohibit the placing on the market or putting into service of non-complying equipment. Because the Department of Trade and Industry leads in the negotiations it will be responsible for implementation. The European Communities Act is now deemed to be the appropriate vehicle. The amendment referred to in paragraph 5 conflicts with the requirement for such safety platforms in Section 23(3) of the Factories Act 1961, and therefore if incorporated in the final version of the Directive would necessitate amendment of existing UK legislation. Such amendment could not be done under the Health and Safety at Work Act 1974 since Section 1(2) of that Act places a specific requirement on Ministers "to maintain or improve the standard of health, safety and welfare established by or under those enactments (then in force)".

### Draft Motion

7. I suggest that the draft motion should be:-

"that the House takes note of European Community Document 6893/79 - a proposal for a Council Directive on the approximation of the laws of the Member States relating to self-propelled industrial trucks - and the latest draft proposal - and accepts the need substantially to reduce current non-tariff barriers to the exports of UK-based manufacturers whilst ensuring a satisfactory level of health and safety protection".

### Proposed Line to Take in Debate

8. Our negotiating stance in Brussels is primarily to support the UK industry's desire to remove existing barriers to trade whilst containing the additional costs to be borne by manufacturers as a result of this exercise in harmonisation of construction and safety requirements. We are also concerned to protect existing safety standards in the UK and to secure improvement in those standards where this can be done without excessive cost.

9. We have consulted interested bodies such as BITA and the CBI, users, and insurers about the proposal on a regular basis and will continue to consult as appropriate. Taking due account of these consultations we have felt it necessary to put down reservations on points of particular concern to Industry and to Government.

### Outstanding negotiating points in Directive

10. Pedal layout remains the most important technical issue in this Directive. The UK position is to argue for a greater degree of pedal standardisation both to reduce the technical barriers that now exist and in the interests of safety to take account of instinctive driver reactions in an emergency. Manufacturers should be allowed to retain some design flexibility. The UK believes that the text in the latest draft does not satisfy these objectives, although other Member States have not objected either to the content or to the manner in which this was introduced by the French at the final Council Working Party.

I propose to tell the House that we will continue to negotiate for changes to achieve a sufficient degree of standardisation while allowing up to two accelerators to the right of the brake. In this

way we achieve a compromise acceptable to UK manufacturers; satisfy undertakings given by Employment Ministers in this Administration to seek to achieve a greater degree of standardisation (Mr Gummer on 21 July 1984 and Mr Bottomley on 11 March 1985); and take due account of specific evidence of fatalities resulting from the use of non-standard pedals available to the Health and Safety Executive (HSE).

11. We shall continue to seek a reversal of the Working Party decision to reduce the safety standard for elevating operator positions. The difference between the draft Directive and the Factories Act may serve to unite those MPs whose proper concern is for an adequate level of worker protection with those others who are opposed in principle to the European Community and will attack this as an erosion of UK sovereignty. Other Member States claim that the proposed alternative is adequate. UK manufacturers will not have to bear additional costs whichever way the conflict is resolved.

Other points which may be of interest in the debate

12. On monitoring we have vigorously supported the proposal for self-certification ie confirmation by the individual manufacturer that the truck complies since this should substantially reduce the bureaucracy which might otherwise be required. We have nonetheless acknowledged the need for some policing by individual Member States. The monitoring would be done by an independent body in the name of the Member State but the costs would be passed back to the manufacturer or importer.

13. Some restriction in choice of new machines available to UK users is a possible consequence of the decision to have a total rather than an optional Directive. Those users who have been consulted have not objected to a total Directive, and indeed few reputable manufacturers will be affected by this restriction; those that do not comply will quickly adapt whilst users will immediately enjoy an increased level of protection from defective or inadequate equipment. MPs concerned for those small UK manufacturers of self-propelled industrial trucks who have chosen to take no interest in European or other overseas markets may view the Directive as an unnecessary burden. They can be assured that every attempt has been made by the UK in negotiation to contain any additional costs, but must also accept this as an unavoidable consequence of a wider single European market, and should be urged to look again at possible sales to other Member States.

14. The overall cost to manufacturers of compliance with the Directive arises in two ways. Firstly there is the cost of incorporating additional or different features within the trucks, including possible re-design. Secondly there is the cost of subsequent testing and monitoring. All of these charges might be expected to be borne by the eventual user. Against these disadvantages must be weighed the benefits gained from the removal of national regulations which as applied by other Member States generally favour their home industries. At present our exporters have to individually tailor models for France, Germany and Italy for example, and submit new models for expensive preliminary tests. There is little scope or incentive for volume production whilst such variations are maintained. Volume production of selected models in Japan has meantime cut their manufacturers' costs and led to dramatically increased sales into Europe, thereby increasing market pressures on European manufacturers. Lack of Community harmonisation



would be an additional burden in the UK industry's efforts to retain and improve its market share. On balance the Directive hold out the prospect of commercial and other benefits to the UK if there is movement on the major issues identified in paragraphs 10 and 11 above.

#### Timing of the Debate

15. The draft Directive is scheduled under a firm drive by the Dutch Presidency for adoption at the Internal Market Council on 18 March but we are unlikely to be in a position to agree to this. Negotiations are continuing in COREPER but of the six reservations on the draft, one is from Greece and 5 from the UK. There is the possibility of late movement in the interests of getting an acceptable package. It would be very helpful therefore if the debate could take place before 27 March.

#### Location of the Debate

16. The proposal which would reduce current UK safety standards is likely to be politically sensitive which might point to a debate on the floor of the House. However because of the technical nature of the Directive as a whole and the timing consideration already referred to, the debate could be taken in Standing Committee. The Scrutiny Committee first recommended the debate should be in Standing Committee but later changed to, and recently confirmed, a preference for a debate on the floor of the House.

Peter Morrison MP

Minister of State

Department of Trade and Industry

