

ANNEX

Categories referred to in the second indent of Article 1 (1) to which objects classified as 'national treasures' within the meaning of Article 36 of the Treaty must belong in order to qualify for return under this Directive

- A. 1. Archaeological objects more than 100 years old which are the products of:
- land or underwater excavations and finds,
 - archaeological sites,
 - archaeological collections
2. Elements forming an integral part of artistic, historical or religious monuments which have been dismembered, more than 100 years old.
3. Pictures and paintings executed entirely by hand, on any medium and in any material⁽¹⁾.
4. Mosaics other than those in category 1 or category 2 and drawings executed entirely by hand, on any medium and in any material⁽¹⁾.
5. Original engravings, prints, serigraphs and lithographs with their respective plates and original posters⁽¹⁾.
6. Original sculptures or statuary and copies produced by the same process as the original⁽¹⁾ other than those in category 1.
7. Photographs, films and negatives thereof⁽¹⁾.
8. Incunabula and manuscripts, including maps and musical scores, singly or in collections⁽¹⁾.
9. Books more than 100 years old, singly or in collections.
10. Printed maps more than 200 years old.
11. Archives and any elements thereof, of any kind, on any medium, comprising elements more than 50 years old.
12. (a) Collections⁽¹⁾ and specimens from zoological, botanical, mineralogical or anatomical collections;
- (b) Collections⁽¹⁾ of historical, palaeontological, ethnographic or numismatic interest.
13. Means of transport more than 75 years old.
14. Any other antique item not included in categories A 1 to A 13, more than 50 years old.
- The cultural objects in categories A 1 to A 14 are covered by this Directive only if their value corresponds to, or exceeds, the financial thresholds under B.

B. Financial thresholds applicable to certain categories under A (in ecus)

VALUE: 0 (Zero)

- 1 (Archaeological objects)
- 2 (Dismembered monuments)
- 8 (Incunabula and manuscripts)
- 11 (Archives)

15 000

- 4 (Mosaics and drawings)
- 5 (Engravings)
- 7 (Photographs)
- 10 (Printed maps)

(1) Which are more than fifty years old and do not belong to their originators.

(2) As defined by the Court of Justice in its Judgment in Case 252/84, as follows:
'Collectors' pieces within the meaning of Heading No 99.05 of the Common Customs Tariff are articles which possess the requisite characteristics for inclusion in a collection, that is to say, articles which are relatively rare, are not normally used for their original purpose, are the subject of special transactions outside the normal trade in similar utility articles and are of high value.'

50 000

- 6 (Statuary)
- 9 (Books)
- 12 (Collections)
- 13 (Means of transport)
- 14 (Any other item)

150 000

- 3 (Pictures)

The assessment of whether or not the conditions relating to financial value are fulfilled must be made when return is requested. The financial value is that of the object in the requested Member State.

The date for the conversion of the values expressed in ecus in the Annex into national currencies shall be 1 January 1993.

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 3381/94

of 19 December 1994

setting up a Community regime for the control of exports of dual-use goods

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas, in establishing the internal market, the free movement of goods, including dual-use goods, must be ensured in accordance with the relevant provisions of the Treaty; whereas intra-Community trade in certain dual-use goods is currently subject to controls by the Member States; whereas a condition for the elimination of such controls on intra-Community trade is the application by the Member States of the most effective controls possible, based on common standards, on the export of the aforesaid goods in the framework of a Community regime of exports controls for dual-use goods; whereas the elimination of such controls will improve the international competitiveness of European industry;

Whereas it is also the aim of this Regulation that dual-use goods should be subject to effective control when they are exported from the Community;

Whereas an effective system of export control on dual-use goods on a common basis is also necessary to ensure that the international commitments of the Member States and the European Union, especially on non-proliferation, are complied with;

Whereas common lists of dual-use goods, destinations and guidelines are essential elements for an effective control system; whereas decisions concerning the content

of these lists are of a strategic nature and consequently fall within the competence of the Member States; whereas those decisions are the subject of joint action pursuant to Article J.3 of the Treaty on European Union;

Whereas the Ministers for Foreign Affairs of the Community adopted, on 20 November 1984, the Declaration of Common Policy, subsequently adopted by Spain and Portugal, which covers in particular the arrangements concerning intra-Community transfers of separated plutonium and of uranium enriched to more than 20 %, as well as installations, the main components of crucial importance and technology related to reprocessing, to enrichment and to the production of heavy water;

Whereas the aforesaid joint action and this Regulation constitute an integrated system;

Whereas this system represents a first step towards the establishment of a common system for the control of exports of dual-use goods which is complete and consistent in all respects; whereas, in particular, it is desirable that the authorization procedures applied by the Member States should be harmonized progressively and speedily;

Whereas the Community has adopted a body of customs rules, contained in the Community Customs Code ⁽³⁾ and its implementing provisions ⁽⁴⁾ which lay down, among other things, provisions relating to the export and re-export of goods; whereas nothing in this Regulation constrains any powers under and pursuant to the Code and its implementing provisions;

⁽¹⁾ OJ No C 253, 30. 9. 1992, p. 13.

⁽²⁾ OJ No C 268, 4. 10. 1993, p. 26.

⁽³⁾ Council Regulation (EEC) No 2913/92 (OJ No L 302, 19. 10. 1992, p. 1).

⁽⁴⁾ Commission Regulation (EEC) No 2454/93 (OJ No L 253, 11. 10. 1993, p. 1).

Whereas Member States should, when considering conditions concerning re-export or end-use of dual-use goods, take into account relevant principles of international law;

Whereas the aim of Articles 4 and 5 of this Regulation is to ensure effective control of exports of dual-use goods; whereas those Articles do not prevent Member States from adopting or maintaining, for the same purpose and with due regard for the internal market, additional export control measures which are compatible with this Regulation's objectives;

Whereas, to eliminate the risk of diversion of dual-use goods from their intended destination in another Member State to a destination outside the Community during the initial phase in which the Member States are adjusting to the requirements of this Regulation, provision should be made for the application of simplified controls on intra-Community trade in dual-use goods; whereas this may include a system of general authorizations; whereas the implementation period should be of limited duration; whereas, during this implementation period, intra-Community trade in dual-use goods should not be subject to stricter controls than are applied on exports from the Community;

Whereas, pursuant to and within the limits of Article 36 of the Treaty, and pending a greater degree of harmonization, Member States will retain the right, both during and after the transitional period, to carry out controls on dual-use goods in order to safeguard public policy or public security;

Whereas, in order to ensure that this Regulation is properly applied, each Member State shall take measures giving the competent authorities appropriate powers;

Whereas each Member State shall determine the penalties to be imposed in the event of breach of the provisions of this Regulation,

HAS ADOPTED THIS REGULATION:

TITLE I

Subject and definitions

Article 1

This Regulation introduces a Community system of export controls for dual-use goods.

Article 2

For the purpose of this Regulation:

- (a) 'dual-use goods' shall mean goods which can be used for both civil and military purposes;
- (b) 'export' shall mean a procedure referred to in Article 161 of the Community Customs Code under which Community goods temporarily or definitively leave the customs territory of the Community; it includes re-export, that is to say a transaction of the kind referred to in Article 182 of the Code by which non-Community goods leave the customs territory of the Community;
- (c) 'exporter' shall mean any natural or legal person on whose behalf the export declaration is made and who is the owner of the dual-use goods or has a similar right of disposal over them at the time when the declaration is accepted. Where ownership or the benefit of a similar right to dispose of the dual-use goods belongs to a person established outside the Community pursuant to the contract on which the export is based, the exporter shall be considered to be the contracting party established in the Community;
- (d) 'competent authorities' shall mean the authorities in each Member State responsible for applying this Regulation;
- (e) 'export declaration' shall mean the act whereby a person indicates in the prescribed form and manner the wish to place dual-use goods under an export procedure.

TITLE II

Scope

Article 3

- 1. An authorization shall be required for the export of the dual-use goods listed in Annex I to Council Decision 94/942/CFSP of 19 December 1994 on the joint action adopted by the Council on the basis of Article J.3 of the Treaty on European Union concerning the control of exports of dual-use goods ⁽¹⁾.
- 2. In pursuance of Article 4 or Article 5, an authorization may be required for the export to all or certain destinations of certain dual-use goods not listed in Annex I to Decision 94/942/CFSP.
- 3. Dual-use goods which pass only through the territory of the Community, whether or not subject to a transit

(1) See page 8 of this Official Journal.

procedure, fall outside the provisions of the Regulation. A Member State may take appropriate measures in respect of such goods.

Article 4

1. An authorization shall be required for the export of dual-use goods not listed in Annex I to Decision 94/942/CFSP, if the exporter has been informed by his authorities that the goods in question are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or the development, production, maintenance or storage of missiles capable of delivering such weapons, as covered by the corresponding non-proliferation arrangements.

2. If the exporter is aware that the goods in question are intended, in their entirety or in part, for one of the purposes referred to in paragraph 1, he must notify his authorities, which will decide whether or not it is expedient to make the export concerned subject to authorization.

3. Member States may adopt or maintain national legislation stipulating that the exporter has to notify his authorities where he has grounds for suspecting that the goods concerned are intended, wholly or in part, for one of the purposes referred to in paragraph 1, and that in such a case the export operation may be made subject to authorization.

Article 5

1. With a view to pursuing the objectives of this Regulation effectively in terms of export controls, a Member State may prohibit or make subject to authorization the export of dual-use goods not listed in Annex I to Decision 94/942/CFSP.

2. Paragraph 1 shall apply to such measures which:

- (a) exist at the time of entry into force of this Regulation, and
- (b) are taken after the date of entry into force of this Regulation.

3. Member States shall notify the other Member States and the Commission of the measures referred to in paragraph 2 (a) within one month of the date of entry into force of this Regulation.

Member States shall notify the other Member States and the Commission of the measures referred to in paragraph 2 (b) immediately after their adoption.

Member States shall also notify the other Member States and the Commission of any modifications concerning the measures referred to in paragraph 2, points (a) and (b).

4. The Commission shall publish the measures notified pursuant to paragraph 3 in the 'C' series of the *Official Journal of the European Communities*.

TITLE III

Export authorization

Article 6

1. An individual authorization shall be required for each export subject to this Regulation. However, Member States may apply simplified formalities as provided for in the following points:

- (a) a general authorization in respect of a type or category of dual-use goods, in accordance with Annex II to Decision 94/942/CFSP;
- (b) a global authorization to a specific exporter in respect of a type or category of dual-use goods which may be valid for exports to one or more specified countries;
- (c) simplified procedures if an authorization is required by the authorities of a Member State, under Article 5.

2. An export authorization may be subject, if appropriate, to certain requirements and conditions. In particular, the competent authorities of a Member State may require a statement of end-use and may impose other conditions concerning the end-use and/or the re-export of the goods.

3. The export authorization shall be valid throughout the Community.

Article 7

1. An export authorization shall be granted by the competent authorities of the Member State in which the exporter is established.

2. If the dual-use goods in respect of which an application has been made for an individual export authorization to a destination not specifically mentioned in Annex II to Decision 94/942/CFSP or to all destinations in the case of very sensitive dual-use goods referred to in Annex IV to the said Decision are or will be located in a different Member State, this shall be indicated on the application. The licensing authorities of the Member State to which the application for authorization has been made shall immediately consult the licensing authorities of the Member State(s) in question and provide the relevant information. The Member State(s) consulted shall make known, following receipt of the information referred to in Article 14 and of any supplementary information required, within 10

working days, any objections it (they) may have to the granting of such an authorization, which shall bind the Member State in which the application has been made.

If no objections are received within the above period, the opinion of the Member State consulted shall be regarded as positive.

3. If an exportation might prejudice its essential interests, a Member State may request another Member State not to grant an export authorization or, if such authorization has been granted, request its annulment, suspension, modification or revocation. The Member State receiving such a request shall immediately engage in consultations of a non-binding nature with the requesting Member State, to be terminated within 10 working days.

4. Member States shall furnish the Commission with a list of the competent authorities empowered to issue export authorizations for dual-use goods.

5. The Commission shall publish the list of the authorities referred to in paragraph 4 in the 'C' series of the *Official Journal of the European Communities*.

Article 8

In deciding whether or not to grant an export authorization, the competent authorities shall take into consideration in the common guidelines set out in Annex III to Decision No 94/942/CFSP.

Article 9

1. Exporters shall supply the competent authorities with all relevant information required for their applications for authorization.

2. The competent authorities of the Member State referred to in Article 7 (1), acting in accordance with this Regulation, may refuse to issue an export authorization and may annul, suspend, modify or revoke an export authorization which they have already issued. Where the authorization is refused, annulled, suspended, substantially limited or revoked, they shall inform the competent authorities of the other Member States and, where appropriate, exchange the relevant information with the other Member States and the Commission, while complying with the provisions of Article 13 (2) concerning the confidentiality of such information.

TITLE IV

Customs procedures

Article 10

1. When completing the export formalities at the customs office responsible for handling the export

declaration, the exporter shall furnish proof that the export has been duly authorized.

2. A translation of any documents furnished as proof into the official language or one of the official languages of the Member State where the declaration is presented may be required of the exporter.

3. Without prejudice to any powers conferred on it under, and pursuant to, the Community Customs Code, a Member State may also, for a period not exceeding 10 working days, suspend the process of release for export from its territory, or, if necessary, otherwise prevent the dual-use goods listed in Annex I to Decision 94/942/CFSP which are covered by a valid authorization from leaving the Community via its territory, where it has grounds for suspicion that:

- relevant information was not taken into account when the authorization was granted, or
- circumstances have materially changed since the issue of the authorization.

In such cases, the competent authorities of the Member State which have granted an export authorization shall be consulted forthwith in order that they may take action pursuant to Article 9 (2).

Should these authorities decide to maintain the authorization or if no reply has been received within the 10 working days mentioned in the first subparagraph, the dual-use goods shall be released immediately unless the consulting Member State has recourse to the provisions of paragraph 4.

4. In exceptional circumstances, where a Member State considers an exportation would be contrary to its essential foreign policy or security interests or to the fulfilment of its international obligations or commitments, it may prevent the dual-use goods from leaving the Community via its territory even though the export was duly authorized.

When a Member State takes action under this paragraph, the goods concerned shall be put at the disposal of the exporter.

The competent authorities of the Member State which issued the authorization shall be duly informed.

Article 11

1. Member States may determine that customs formalities for the export of dual-use goods may be completed only at customs offices empowered to that end.

2. Member States taking the option offered by paragraph 1 shall inform the Commission of the customs offices duly empowered. The Commission shall publish this information in the 'C' series of the *Official Journal of the European Communities*.

Article 12

The provisions of Part II, Title II, Chapter 11 of the provisions for application of the Community Customs Code and Article 22 of Appendix I to the Convention on a common transit procedure⁽¹⁾ concluded on 20 May 1987 by the Community and the EFTA countries shall apply where carriage of dual-use goods is effected between two points in the Community through the territory of an EFTA country.

TITLE V

Administrative cooperation

Article 13

1. Acting in liaison with the Commission, Member States shall take all appropriate measures to establish direct cooperation and exchange of information between competent authorities, in particular to eliminate the risk that possible disparities in the application of export controls may lead to a deflection of trade, which could create difficulties for one or more Member States.

2. Council Regulation (EEC) No 1468/81 of 19 May 1981 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs or agricultural matters⁽²⁾, and in particular the provisions on the confidentiality of information, shall apply *mutatis mutandis*, without prejudice to Article 16 of this Regulation.

TITLE VI

Control measures

Article 14

1. The exporters must keep detailed registers or records of their transactions, in accordance with the practice in force in the respective Member States. Such registers or records must include in particular commercial documents such as invoices, manifests and transport and other dispatch documents containing sufficient information to allow the following to be identified:

— the description of the dual-use goods,

- the quantity of the dual-use goods,
- the name and address of the exporter and of the consignee,
- where known, the end-use and end-user of the dual-use goods.

2. The registers and records and the documents referred to in paragraph 1 must be kept for at least three years from the end of the calendar year in which the export referred to in paragraph 1 took place. They must be produced to the competent authorities on request.

Article 15

In order to ensure that this Regulation is properly applied, each Member State shall take whatever measures are needed to permit the competent authorities:

- (a) to gather information on any order or transaction involving dual-use goods;
- (b) to establish that the control measures are being properly applied, which may include in particular the power to enter the premises of persons with an interest in an export transaction.

TITLE VII

General and final provisions

Article 16

1. A Coordinating Group chaired by a representative of the Commission shall be set up. Each Member State shall appoint a representative to the Coordinating Group.

2. The Coordinating Group shall examine:

- (a) any question concerning the application of this Regulation, which may be raised either by the chairman or by a representative of a Member State; and
- (b) the measures which should be taken by Member States to inform exporters of their obligations under this Regulation.

3. The Coordinating Group may, whenever it considers it to be necessary, consult organizations representative of exporters concerned by this Regulation.

Article 17

Each Member State shall take appropriate measures to ensure proper enforcement of all the provisions of this Regulation. In particular, it shall determine the penalties to be imposed in the event of breach of the provisions of the Regulation or of those adopted for its application. Such penalties must be effective, proportionate and dissuasive.

⁽¹⁾ OJ No L 226, 13. 8. 1987, p. 2, as amended by OJ No L 402, 31. 12. 1992, p. 1.

⁽²⁾ OJ No L 144, 2. 6. 1981, p. 1. Regulation as amended by Regulation (EEC) No 945/87 (OJ No L 90, 2. 4. 1987, p. 3).

In particular, for the implementation of Article 4 (2), each Member State shall lay down and specify the nature of the breach of national law and shall determine the nature of the penalty to be imposed.

Article 18

Each Member State shall inform the Commission of the laws, regulations and administrative provisions adopted in implementation of this Regulation and of Decision 94/942/PESC.

The Commission shall forward this information to the other Member States. Every two years it shall present a report to the European Parliament and the Council on the application of this Regulation.

Article 19

1. For a transitional period, the following measures shall apply in respect of consignments dispatched from one Member State to another:

- (a) for dual-use goods listed in Annex I to Decision 94/942/PESC, the relevant commercial documents shall indicate clearly that they are subject to control if exported from the Community;
- (b) for dual-use goods listed in Annex IV to Decision 94/942/PESC, authorizations shall be required by all Member States. Those authorizations may not be general authorizations.

2. Documents and records of consignments of dual-use goods listed in Annex I to Decision 94/942/CFSP must be kept for at least three years from the end of the year in which a transaction took place and must be produced to the competent authorities on request. Any natural or legal person who engages in intra-Community trade in the dual-use goods listed in Annex I to Decision 94/942/CFSP must, before or within 30 days of the first such transaction, provide details to the competent authorities of his name and the address where the documents and records can be inspected.

3. (a) A Member State may require an authorization for the transfer of dual-use goods from its territory to another Member State in cases where at the time of transfer:

- the operator knows that the final destination of the goods concerned is outside the Community,
- export of those goods to that destination is subject to a licence pursuant to Articles 3, 4 or 5, and

— no processing or working as defined in Article 24 of the Community Customs Code is to be performed on the goods in the Member State to which they are being transferred.

(b) The transfer authorization must be applied for in the Member State from which the dual-use goods are transferred.

(c) A Member State which adopts such rules shall forthwith inform the other Member States and the Commission of the measures it has taken in accordance with Article 13.

4. These measures shall not involve the application of internal frontier controls within the Community, but solely controls which are performed as part of the normal control procedures applied in a non-discriminatory fashion throughout the territory of the Community.

5. The need for the measures provided for by this Article shall be re-examined within three years from the date of entry into force of this Regulation.

6. Application of this Article may in no case result in consignments of a specific product from one Member State to another being subject to more restrictive conditions than those imposed for exports of the same product to non-member countries.

Article 20

1. For consignments dispatched from one Member State to another of dual-use goods listed in Annex V to Decision 94/942/CFSP, individual authorization (including, if appropriate, conditions concerning end-use and/or retransfer) may be required by the Member State as indicated in that Annex.

2. The measures referred to in paragraph 1 shall not involve the application of controls at the Community internal frontiers, but solely controls which are performed as part of the normal control procedures applied in a non-discriminatory fashion throughout the territory of the Community.

Article 21

1. An authorization shall be required for intra-Community transfers of separated plutonium or uranium enriched to more than 20 %, as well as installations, main components of crucial importance and technology related to reprocessing, to enrichment and the production of heavy water, under the terms of the Declaration of Common Policy of 20 November 1984

2. The measures referred to in paragraph 1 shall involve the application of internal frontier controls with

the Community, but solely controls which are performed as part of the normal control procedures applied in a non-discriminatory fashion throughout the territory of the Community.

Article 22

This Regulation does not affect:

- the application of Article 223 of the Treaty establishing the European Community;
- the application of the Treaty establishing the European Atomic Energy Community.

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

Done at Brussels, 19 December 1994.

Article 23

Council Regulation (EEC) No 428/89 of 20 February 1989 concerning the export of certain chemical products ⁽¹⁾ is hereby repealed.

Article 24

This Regulation shall enter into force on the day of its publication.

It shall apply from 1 March 1995.

For the Council

The President

K. KINKEL

⁽¹⁾ OJ No L 50, 22. 2. 1989, p. 1.

I. 2. C. 2

I

*(Acts whose publication is obligatory)***COUNCIL REGULATION (EEC) No 302/93****of 8 February 1993****on the establishment of a European Monitoring Centre for Drugs and Drug Addiction**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas, at its meeting in Dublin on 25 and 26 June 1990, the European Council :

— ratified the 'Guidelines for a European Plan to Combat Drugs' submitted to it by the European Committee to Combat Drugs (Celad), and in particular the recommendation that 'a study be conducted by experts on the existing sources of information, their reliability and their usefulness, and on the need for and possible scope of a European Drugs Monitoring Centre and the financial implications of setting up such a Centre, on the understanding that the brief of this Centre would cover not only the social and health aspects but also other drugs-related aspects, including trafficking and repression',

— stressed that it was the responsibility of each Member State to develop an appropriate drug demand reduction programme and considered that effective action by each Member State, supported by joint action of the Twelve and the Community, should be a main priority over the coming years ;

Whereas the findings of the feasibility study on the Centre and the European Plan to Combat Drugs

submitted to the Rome European Council on 13 and 14 December 1990 should be borne in mind ;

Whereas the European Council, at its meeting in Luxembourg on 28 and 29 June 1991, 'approved the setting up of a European Drugs Monitoring Centre on the understanding that the practical arrangements for its implementation, e.g. its size, institutional structure and computer systems, are still to be discussed and instructed Celad to continue work to that end and bring it rapidly to a successful conclusion, in liaison with the Commission and the other relevant political bodies' ;

Whereas the European Council, at its meeting in Maastricht on 9 and 10 December 1991, 'invited the institutions of the Community to employ all means to ensure that the act setting up the European Drugs Centre could be adopted before 30 June 1992' ;

Whereas the Community concluded, by Decision 90/611/EEC ⁽⁴⁾, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, hereinafter referred to as the 'Vienna Convention', and deposited a declaration of competence regarding Article 27 thereof ⁽⁵⁾ ;

Whereas the Council adopted Regulation (EEC) No 3677/90 ⁽⁶⁾ for the implementation by the Community of the system provided for in Article 12 of the aforementioned Vienna Convention for monitoring trade in certain substances ;

Whereas the Council adopted Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering ⁽⁷⁾, which aims in particular to combat drug trafficking ;

⁽¹⁾ OJ No L 326, 24. 11. 1990, p. 56.

⁽²⁾ OJ No L 326, 24. 11. 1990, p. 57.

⁽³⁾ OJ No L 357, 20. 12. 1990, p. 1. Regulation, as amended by Regulation (EEC) No 900/92 (OJ No L 96, 10. 4. 1992, p. 1).

⁽⁴⁾ OJ No L 166, 28. 6. 1991, p. 77.

⁽¹⁾ OJ No C 43, 18. 2. 1992, p. 2.

⁽²⁾ OJ No C 150, 15. 6. 1992, p. 54.

⁽³⁾ OJ No C 223, 31. 8. 1992, p. 26.

Whereas objective, reliable and comparable information concerning drugs, drug addiction and their consequences is required at Community level to help provide the Community and the Member States with an overall view and thus give them added value when, in their respective areas of competence, they take measures or decide on action to combat drugs;

Whereas the drug phenomenon comprises many complex and closely interwoven aspects which cannot easily be dissociated; whereas, therefore, the Centre should be entrusted with the task of furnishing overall information which will help to provide the Community and its Member States with an overall view of the drug and drug addiction phenomenon; whereas this task should not prejudice the allocation of powers between the Community and its Member States with regard to the legislative provisions concerning drug supply and demand;

Whereas the Centre's organization and working methods must be consistent with the objective nature of the results sought, namely the comparability and compatibility of sources and methods in connection with drug information;

Whereas the information compiled by the Centre will concern priority areas whose content, scope and implementing arrangements should be defined;

Whereas, during the first three-year period, special attention will be given to demand and demand reduction;

Whereas, in their resolution of 16 May 1989 concerning a European network of health data on drug abuse⁽¹⁾, the Council and the Ministers for Health of the Member States meeting within the Council invited the Commission to take possible initiatives in this area;

Whereas a European information network on drugs and drug addiction should be set up, to be coordinated and led at Community level by the European Drugs Monitoring Centre;

Whereas Convention 108 of the Council of Europe for the Protection of Individuals with regard to Automatic Processing of Personal Data (1981) should be taken into account;

Whereas there already exist national, European and international organizations and bodies supplying information

of this kind, and whereas the Centre should be able to carry out its tasks in close cooperation with them;

Whereas the Centre must have legal personality;

Whereas it is necessary to ensure that the Centre carries out its information task and to confer jurisdiction for this purpose on the Court of Justice;

Whereas it is desirable to recognize the possibility of opening the Centre to non-Community countries which share the interest of the Community and the Member States in the attainment of these objectives, under agreements to be concluded between them and the Community;

Whereas this Regulation could, if necessary, be adapted after a three-year period with a view to a decision on the possible extension of the Centre's tasks, taking into account, in particular, the evolution of Community powers;

Whereas, for the adoption of this Regulation the Treaty provides for no powers to act other than those laid down in Article 235,

HAS ADOPTED THIS REGULATION :

Article 1

Objective

1. This Regulation establishes the European Monitoring Centre for Drugs and Drug Addiction (EDMC) hereinafter referred to as 'the Centre'.
2. The Centre's objective is to provide, in the area referred to in Article 4, the Community and its Member States with objective, reliable and comparable information at European level concerning drugs and drug addiction and their consequences.
3. The statistical, documentary and technical information processed or produced is intended to help provide the Community and the Member States with an overall view of the drug and drug addiction situation when, in their respective areas of competence, they take measure or decide on action.
4. The Centre may not take any measure which in any way goes beyond the sphere of information and its processing thereof.

⁽¹⁾ OJ No C 185, 22. 7. 1989, p. 1.

5. The Centre shall not collect any data making it possible to identify individuals or small groups of individuals. It shall refrain from any transmission of information relating to specific named cases.

Article 2

Tasks

In order to achieve the objective set out in Article 1, the Centre shall perform the following tasks within its areas of activity :

A. Collection and analysis of existing data

It shall :

1. collect, register and analyse information, including data resulting from research, communicated by Member States as well as that emanating from Community, non-governmental national sources and competent international organizations ;
2. carry out surveys, preparatory studies and feasibility studies, together with any pilot projects necessary to accomplish its tasks ; organize meetings of experts and whenever necessary set up *ad hoc* working parties for the purpose ; it shall set up and make available open scientific documentation resources and assist in the promotion of information activities ;
3. provide an organizational and technical system capable of supplying information on similar or complementary programmes or action pursued by the Member States ;
4. establish and coordinate, in consultation and in cooperation with the competent authorities and organizations in the Member States, the network referred to in Article 5 ;
5. facilitate exchanges of information between decision-makers, researchers, specialists and those involved in combating drugs in governmental and non-governmental organizations ;

B. Improvement of data-comparison methods

6. ensure improved comparability, objectivity and reliability of data at European level by establishing indicators and common criteria of a non-binding nature, compliance with which may be recommended by the Centre, with a view to greater uniformity of the measurement methods used by the Member States and the Community ;
7. facilitate and structure exchange of information, in terms of both quality and quantity (databases) ;

C. Dissemination of data

8. make the information produced by it available to the Community, the Member States and competent organizations ;
9. ensure wide dissemination of work done in each Member State and by the Community itself, and, where appropriate, by non-Community countries or international organizations ;
10. ensure wide dissemination of reliable non-confidential data, on the basis of data which it gathers it shall publish a yearly report on the state of the drugs problem ;

D. Cooperation with European and international bodies and organizations and with non-Community countries

11. contribute to improving coordination between national and Community action in its areas of activity ;
12. without prejudice to Member States' obligations with regard to transmission of information under the provisions of the United Nations Conventions on drugs, promote the incorporation of data on drugs and drug addiction gathered in the Member States or emanating from the Community into international monitoring and drug-control programmes particularly those established by the United Nations Organization and its specialized agencies ;
13. cooperate actively with the bodies referred to in Article 12.

Article 3

Work method

1. The Centre shall progressively carry out its tasks in the light of the objectives adopted in the three-year and annual work programmes and with due regard to the available resources.
2. In pursuing its activities, the Centre shall, in order to avoid duplication, take account of those already carried out by other existing or future institutions and agencies, notably the European Police Office (Europol), and shall ensure that it adds to their value.

Article 4

Priority areas of activity

The objectives and tasks of the Centre, as defined in Articles 1 and 2, shall be implemented following the order of priorities indicated in the Annex.

*Article 5***European Information Network on Drugs and Drug Addiction (Reitox)**

1. The Centre shall have at its disposal the European Information Network on Drugs and Drug Addiction (Reitox), a computer network forming the infrastructure for collecting and exchanging information and documentation; the network shall make use of, *inter alia*, an autonomous computer system linking the national drug information networks, the specialized centres in Member States and the information systems of the international or European organizations or bodies cooperating with the Centre.

2. In order to enable the network to be established as rapidly and efficiently as possible, the Member States shall, with in six months of the entry into force of this Regulation, notify the Centre of the main elements of their national information networks, including where appropriate the national monitoring centres, in the areas of activity mentioned in Article 4 and name any specialized Centres which in their judgment could make a useful contribution to the Centre's work.

3. The specialized centres shall be designated with the consent of the Member State in whose territory they are located, by a unanimous decision of the members of the management board, as referred to in the second subparagraph of Article 8 (2), for a period not exceeding the duration of each multiannual work programme as referred to in Article 8 (3). This designation shall be renewable.

4. The Centre may, with the consent of the Member State in whose territory the centres are located, enter into contractual relations, in particular subcontracting arrangements, with governmental or non-governmental specialized centres as referred to in paragraph 3, in order to fulfil any tasks which it may wish to entrust to them. With the consent of the respective Member States, it may also enter into contracts, on an *ad hoc* basis and for specific tasks, with bodies which are not part of Reitox.

5. The allocation of specific tasks to the specialized centres shall appear in the Centre's multiannual programme mentioned in Article 8 (3).

*Article 6***Protection and confidentiality of data**

1. Where on the basis of this Regulation personal data which do not enable natural persons to be identified are also forwarded to the Centre in accordance with national

law, such data may be used only for the stated purpose and under the conditions prescribed by the forwarding authority. This shall apply *mutatis mutandis* where personal data are communicated by the Centre to the competent authorities of the Member States or to international organizations and other European institutions.

2. Data on drugs and drug addiction provided to or by the Centre may be published subject to compliance with Community and national rules on the dissemination and confidentiality of information. Personal data may not be published or made accessible to the public.

3. Member States and the specialized centres shall be under no obligation to provide information classified as confidential under their national legislation.

*Article 7***Legal status**

The Centre shall have legal personality. It shall enjoy, in each Member State, the most extensive legal status granted to legal persons under their laws; in particular, it may purchase or dispose of movable and immovable property and may institute legal proceedings.

*Article 8***Management Board**

1. The Centre shall have a management board consisting of one representative from each Member State, two representatives from the Commission and two scientists particularly qualified in the field of drugs, designated by the European Parliament on the basis of their particular qualification in that field.

Each member of the management board may be assisted or represented by an alternative member. In the absence of the full member, the alternative member may exercise his right to vote. The management board may call in as non-voting observers representatives of international organizations with which the Centre cooperates in accordance with Article 12.

2. The chairman of the management board shall be elected by its members for a three-year period: his term of office shall be renewable once. The chairman shall take part in the voting. Each member of the management board shall have one vote.

The decisions of the management board shall be taken by a two-thirds majority of its members, except in the cases referred to in Article 5 (3), for which a unanimous decision by the members is required, and in paragraph 3 of this Article.

The management board shall draw up its own rules of procedure.

The management board shall meet at least once a year.

3. The management board shall adopt a three-year work programme on the basis of a draft submitted by the Centre's Director, after consulting the Scientific Committee and seeking the opinions of the Commission and of the Council. The first three-year programme shall be adopted unanimously, within nine months of the entry into force of this Regulation. The management board, acting by a majority of three-quarters of its members, shall decide whether subsequent three-year programmes are to be adopted by the majority laid down in the second subparagraph of paragraph 2 of this Article or by unanimity.

4. Under the three-year work programme, the management board shall each year adopt the Centre's annual work programme on the basis of a draft submitted by the Director, after consulting the Scientific Committee and seeking the Commission's opinion. The programme may be adjusted in the course of the year in accordance with the same procedure.

5. By 31 January each year at the latest, the management board shall adopt an annual general report on the activities of the Centre. The Director shall forward this report to the European Parliament, the Council, the Commission and the Member States.

Article 9

Director

1. The Centre shall be headed by a Director appointed by the management board on a proposal from the Commission for a five-year period, which shall be renewable. The Director shall be responsible for:

- preparing and implementing the decisions and programmes adopted by the Centre's management board,
- day-to-day administration,
- preparing the Centre's work programmes,
- the preparation of a statement of revenue and expenditure and on the implementation of the budget,
- the preparation and publication of the reports provided for in this Regulation,

— all staff matters,

— performance of the tasks referred to in Article 1 and 2.

2. The Director shall be accountable for his activities to the management board and shall attend its meetings.

3. The Director shall be the Centre's legal representative.

Article 10

Scientific Committee

1. The management board and the Director shall be assisted by a Scientific Committee which shall deliver an opinion where provided for in this Regulation on any scientific matter concerning the Centre's activities which the management board or the Director may submit to it.

The opinions of the Scientific Committee shall be published.

2. The Scientific Committee shall consist of one representative from each Member State. The management board may appoint up to six other members having regard to their particular qualifications.

3. Members shall serve on the Scientific Committee for a three-year period, which shall be renewable.

4. The Scientific Committee shall elect its chairman for a three-year period.

5. The Scientific Committee shall be convened by its chairman at least once a year.

Article 11

Budget

1. Estimates shall be drawn up of all the Centre's revenue and expenditure for each financial year, which shall correspond to the calendar year, and shall be entered in the Centre's budget.

2. By 15 February each year at the latest, the Director shall draw up a preliminary draft budget covering the operational expenditure and the programme of work anticipated for the following financial year, and shall forward this preliminary draft to the management board together with an establishment plan.

3. Revenue and expenditure shall be in balance.

4. The Centre's revenue shall, without prejudice to other resources, consist of a subsidy from the Community entered under a specific heading of the general budget of the European Communities (Commission Section), payments for services rendered and any financial contributions from the organizations and bodies and non-Community countries mentioned in Articles 12 and 13 respectively.

5. The Centre's expenditure shall include, *inter alia* :

- staff remuneration, administrative and infrastructure expenses, and operating costs,
- expenditure in support of the national information networks which form part of the Reitox network and expenditure relating to contracts with the specialized centres.

6. The management board shall adopt the draft budget and forward it to the Commission, which on that basis shall establish the relevant estimates in the preliminary draft general budget of the European Communities, which it shall put before the Council pursuant to Article 203 of the Treaty.

7. The management board shall adopt the Centre's final budget before the beginning of the financial year, adjusting it where necessary to the Community subsidy and the Centre's other resources.

8. The Director shall implement the budget.

9. Monitoring of the commitment and payment of all the Centre's expenditure and of the establishment and recovery of all the Centre's revenue shall be carried out by the Commission's financial controller.

10. By 31 March each year at the latest, the Director shall forward to the Commission, the management board and the Court of Auditors the accounts for all the Centre's revenue and expenditure in respect of the preceding financial year.

The Court of Auditors shall examine them in accordance with Article 206a of the Treaty.

11. The management board shall give a discharge to the Director in respect of the implementation of the budget.

12. The Financial Regulation applicable to the general budget of the European Communities shall apply to the Centre. The Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament and the management board, may grant derogations from the Financial Regulation when then specific requirements of the functioning of the Centre so dictate.

Article 12

Cooperation with other organizations and bodies

Without prejudice to relations which the Commission may maintain pursuant to Article 229 of the Treaty, the Centre shall actively seek the cooperation of international organizations and other, particularly European, governmental and non-governmental agencies competent in the sector of drugs.

Article 13

Non-Community countries

1. The Centre shall be open to the participation of those non-Community countries which share the Community's interests and those of its Member States in the Centre's objectives and work, on the basis of agreements entered into between them and the Community on the basis of Article 235 of the Treaty.

2. The management board may take a decision on the involvement of experts proposed by non-Community countries in the *ad hoc* working parties provided for in Article 2 (2), subject to an undertaking from the interested parties to observe the rules referred to in Article 6.

Article 14

Privileges and immunities

The Protocol on the Privileges and immunities of the European Communities shall apply to the Centre.

Article 15

Staff Regulations

The staff of the Centre shall be subject to the regulations and rules applicable to the officials and other servants of the European Communities.

The Centre shall exercise in respect of its staff the powers devolved to the appointing authority.

The management board shall, in agreement with the Commission, adopt the appropriate implementing rules.

Article 16

Liability

1. The contractual liability of the Centre shall be governed by the law applicable to the contract in question. The Court of Justice shall have jurisdiction pursuant to an arbitration clause contained in a contract concluded by the Centre.

2. In the case of non-contractual liability, the Centre shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by the Centre or its servants in the performance of their duties. The Court of Justice shall have jurisdiction in disputes relating to compensating for any such damage.

3. The personal liability of servants towards the Centre shall be governed by the provisions applying to the staff of the Centre.

*Article 17***Jurisdiction for the Court of Justice**

The Court of Justice shall have jurisdiction in actions brought against the Centre under the conditions provided for in Article 173 of the Treaty.

*Article 18***Report**

During the third year following the entry into force of this Regulation, the Commission shall forward to the European Parliament and to the Community a progress

report on the Centre's activities, together with proposals, if appropriate, to modify or extend its tasks, taking into account, in particular, the evolution of Community powers.

*Article 19***Entry into force**

This Regulation shall enter into force on the day following the decision of the competent authorities on the seat of the Centre.

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

Done at Brussels, 8 February 1993.

For the Council

The President

J. TRØJBORG

ANNEX

- A. The work of the Centre shall be carried out with due regard to the respective powers of the Community and its Member States in the area of drugs, as those powers are defined by the Treaty.

The information gathered by the Centre shall relate to the following priority areas :

1. demand and reduction of the demand for drugs ;
 2. national and Community strategies and policies (with special emphasis on international, bilateral and Community policies, action plans, legislation, activities and agreements) ;
 3. international cooperation and geopolitics of supply (with special emphasis on cooperation programmes and information on producer and transit countries) ;
 4. control of trade in narcotic drugs, psychotropic substances and precursors, as provided for in the relevant present or future international conventions and Community acts⁽¹⁾ ;
 5. Implications of the drugs phenomenon for producer, consumer and transit countries, within areas covered by the Treaty, including money laundering, as laid down by the relevant present or future Community acts⁽²⁾.
- B. The Commission shall make available to the Centre, for dissemination, the information and statistical data which it possesses pursuant to its powers.
- C. During the first three-year period special attention will be given to demand and demand reduction.

(¹) — The relevant international conventions currently in force include, in particular, the United Nations Conventions, in so far as the Community is or could become party to them.
— The relevant Community acts currently in force include in particular Council Regulation (EEC) No 3677/90 of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances.
— This involves only information which the Member States are obliged to supply to the Commission on the basis of existing and future Community legislation.

(²) — Of the relevant Community acts currently in force the one concerning money laundering is the Council Directive of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering.
— This involves only information which the Member States are obliged to supply to the Commission on the basis of existing and future Community legislation.

I.2.C.3

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EURATOM) No 3227/76

of 19 October 1976

concerning the application of the provisions on Euratom safeguards

THE COMMISSION OF THE EUROPEAN COMMUNITIES.

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 77, 78, 79 and 81 thereof,

Having regard to the approval of the Council,

Whereas Commission of the European Atomic Energy Community Regulation No 7 established the implementing procedures for the declarations required by Article 78 of the Treaty ⁽¹⁾,

Whereas Commission of the European Atomic Energy Community Regulation No 8 ⁽²⁾ defined the nature and the extent of the requirements referred to in Article 79 of the Treaty;

Whereas, in view of the increasing quantities of nuclear materials produced, used and carried in the Community and the development of trade in these materials, it is essential, in order to ensure the effectiveness of safeguards, that the nature and the extent of the requirements referred to in Article 79 of the Treaty and laid out in Regulation No 8 referred to above, be defined and brought up to date in the light of experience particularly with regard to the transportation of, or commerce in these materials;

Whereas, moreover, the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of

Germany, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the European Atomic Energy Community (Euratom) concluded on 5 April 1973 an Agreement (hereinafter called 'the Agreement') with the International Atomic Energy Agency in implementation of Article III (1) and (4) of the Treaty on the non-proliferation of nuclear weapons;

Whereas the Agreement contains a particular undertaking entered into by the Community concerning the application of safeguards on source and special fissile materials on the territories of the Community Member States which have no nuclear weapons of their own and which are parties to the Treaty on the non-proliferation of nuclear weapons and, in conjunction with the Community, to the Agreement signed on 5 April 1973 with the International Atomic Energy Agency (hereinafter called 'the Member States party to the Agreement');

Whereas the implementation of this undertaking requires the establishment of particular procedures for the application of safeguards on the territories of the Member States party to the Agreement in order to amplify the provisions of the aforementioned Regulations No 7 and No 8;

Whereas, moreover, the procedures foreseen by this Agreement are in conformity with those devised in the course of a very wide-ranging international negotiation conducted, in view of the provisions of paragraphs 1 and 4 of Article III of the Treaty on the non-proliferation of nuclear weapons, with the International Atomic Energy Agency, the result of which has been approved by the Board of Governors of that organization, and that these procedures are based on the most modern developments in the field of safeguards;

⁽¹⁾ OJ No 15, 12. 5. 1959, p. 298/59, and communication on the numbering of EAEC Regulations (OJ No 34, 29. 5. 1959, p. 649/59).

⁽²⁾ OJ No 34, 29. 5. 1959, p. 651/59.

Whereas, accordingly, it is opportune to define new procedures for the application of the provisions of Chapter VII of the Treaty;

Whereas the Community, the United Kingdom and the International Atomic Energy Agency have signed on 6 September 1976 an Agreement comprising a particular commitment which concerns the application of safeguards to source and special fissile materials on the territory of the United Kingdom;

Whereas it is appropriate to arrange for particular provisions relative to the accounting system and the presentation of records concerning ores;

Whereas, on the territories of the Member States not party to the Agreement, some installations or parts thereof as well as certain materials are liable to be involved in the production cycle for defence needs, therefore it is appropriate to specify particular safeguard procedures to take account of these circumstances;

Whereas, for clarity's sake, and particularly to make the respect of safeguard Regulations easier for those concerned, it is appropriate to codify these Regulations in a single text,

HAS ADOPTED THIS REGULATION:

PART I

BASIC TECHNICAL CHARACTERISTICS AND PARTICULAR SAFEGUARD PROVISIONS

DECLARATION OF THE TECHNICAL CHARACTERISTICS

Article 1

Any person or undertaking setting up or operating an installation for the production, separation or other use of source materials or special fissile materials or for the processing of irradiated nuclear fuels shall declare to the Commission the basic technical characteristics of the installation, on the basis of the relevant questionnaire given in Annex I hereto.

Any person or undertaking responsible for the storage of source materials or special fissile materials shall be subject to the provisions of the first paragraph.

Article 2

Where the basic technical characteristics of an installation have already been communicated to the Commission, the declarations specified in the said Article 1 may be made by reference to such earlier communication, provided that any additional information required by the questionnaire referred to

in Article 1 is supplied within 30 days from the date on which this Regulation comes into force.

The basic technical characteristics of new installations shall be declared as laid down in Article 1 at least 45 days before the first consignment of nuclear material is due to be received.

Article 3

The 'particular safeguard provisions' referred to in Article 7 shall specify those important changes in the basic technical characteristics for which advance notification is required.

Any other changes in the basic technical characteristics shall be communicated to the Commission, together with the first inventory change report made after the modification is complete.

Article 4

On receipt of a reasoned request, the Commission may allow additional time for the completion of the declarations required in the preceding Articles.

Article 5

The provisions of Article 1 shall not apply to persons or undertakings holding only nuclear materials exempted from the declaration requirements as provided for by Article 22.

PROGRAMME OF ACTIVITIES

Article 6

The persons or undertakings referred to in Article 1 shall also communicate to the Commission, for the planning of its safeguard activities, the following information:

- (a) annually, an outline programme of activities drawn up in accordance with the 'particular safeguard provisions' referred to in Article 7, the first communication being made on the basis of the guidelines given in Annex X, at the same time as that of the basic technical characteristics referred to in Article 1;
- (b) at least 40 days before beginning the taking of a physical inventory, the programme for such work;
- (c) at least 40 days before starting to shut down a batch-loaded reactor for reloading, the programme in respect of such shutting down unless otherwise provided in the 'particular safeguard provisions' referred to in Article 7.

Any change affecting programmes for the taking of physical inventories or for the shutting down of reactors to reload shall be communicated to the Commission without delay.

PARTICULAR SAFEGUARD PROVISIONS

Article 7

Acting on the declarations of basic technical characteristics and on the information communicated in pursuance of Article 6, the Commission shall specify in the 'particular safeguard provisions' the procedures by which the persons or undertakings concerned shall meet the requirements in relation

to safeguards imposed on them. Among others these procedures shall include:

- (a) the designation of the material balance areas and the selection of those strategic points which are key measurement points for determining the flow and stocks of nuclear materials;
- (b) the procedures for keeping records of nuclear materials for each material balance area and for drawing up reports;
- (c) the frequency of and procedures for drawing up physical inventories for accounting purposes as part of safeguard measures;
- (d) containment and surveillance measures, in accordance with the modalities agreed upon with the plant operators;
- (e) sample-taking by the plant operator solely for safeguard purposes.

The 'particular safeguard provisions' shall also lay down the content of subsequent communications required under Article 6 of this Regulation as well as the conditions requiring advance notification of shipments and receipts of nuclear material.

The Commission will reimburse the person or undertaking concerned the cost of those special services which are provided for in the 'particular safeguard provisions', or which are provided because of a special request of the Commission or of the inspectors and on the basis of an agreed estimate. The extent and modality of the reimbursement will be fixed between the parties concerned and will be reviewed periodically as necessary.

Article 8

The 'particular safeguard provisions' referred to in Article 7 shall be drawn up by means of an individual decision of the Commission after consultation with the person or undertaking concerned and the appropriate Member State.

The person or undertaking affected by any individual decision of the Commission will be notified thereof, and a copy of such notification will be transmitted to the Member State concerned.

PART II

ACCOUNTING SYSTEM

Article 9

The persons and undertakings referred to in Article 1 shall maintain a system of accounting for and control of nuclear materials. This system shall include accounting and operating records and, in particular, information on the quantities, nature, form and composition of these materials in accordance with the requirements of Article 21, their actual location, the particular safeguarding obligation, and the way in which the persons or undertakings concerned have stated that they intend to use such materials, in accordance with their own decisions, as well as the shipper or recipient when materials are transferred.

The system of measurements on which the records are based shall comply with the most recent international standards or shall be equivalent in quality to those standards. On the basis of these records it must be possible to establish and justify the communications addressed to the Commission in the form and at the intervals laid down in Articles 12 to 21. Records shall be retained for a period of at least five years.

ACCOUNTING RECORDS

Article 10

The accounting records shall show in respect of each material balance area:

- (a) all inventory changes, so as to permit a determination of the book inventory at any time;
- (b) all measurement and counting results that are used for determination of the physical inventory;
- (c) all corrections that have been made in respect of inventory changes, book inventories and physical inventories.

For all inventory changes and physical inventories the accounting records shall show, in respect of each batch of nuclear material, material identification, batch data and source data. These records shall account separately for uranium, thorium and plutonium in each batch of nuclear material. Moreover for each inventory change, the date of the

inventory change and, when appropriate, the dispatching material balance area and the receiving material balance area or the recipient, shall be indicated.

OPERATING RECORDS

Article 11

The operating records shall include, if appropriate, for each material balance area:

- (a) those operating data which are used to establish changes in the quantities and composition of the nuclear material;
- (b) the data obtained from the calibration of tanks and instruments and from sampling and analysis, the procedures to control the quality of measurements and the derived estimates of random and systematic error;
- (c) a description of the sequence of actions taken in preparing for, and in taking, a physical inventory in order to ensure that it is correct and complete;
- (d) a description of the actions taken in order to ascertain the cause and magnitude of any accidental or unmeasured loss that might have occurred.

ACCOUNTING AND SPECIAL REPORTS

Article 12

The persons and undertakings referred to in Article 1 shall provide the Commission with accounting reports and, when appropriate, with special reports.

The accounting reports shall set forth the information available on the date of reporting and must be corrected at a later date if necessary.

On a reasoned request by the Commission, further details or explanations in connection with these reports shall be supplied normally within three weeks of that request.

Initial inventory*Article 13*

The persons and undertakings referred to in Article 1 shall transmit to the Commission an initial book inventory of all nuclear materials which for any reason they have in their possession within 15 days of the last day of the month in which this Regulation comes into force. This inventory shall describe the situation on the last day of that month. The form set out in Annex IV to this Regulation shall be used for this purpose.

Inventory change report*Article 14*

For each material balance area, the persons and undertakings referred to in Article 1 shall transmit to the Commission inventory change reports in respect of all nuclear materials in accordance with the specimen set out in Annex II. The reports shall identify the materials and give batch data for each batch thereof, the date of the inventory change and, when appropriate, the dispatching material balance area and the receiving material balance area or the recipient.

The reports concerning transfers shall also indicate for receipts the intended use, pursuant to Article 9, and for dispatches the use made of the nuclear materials in the reporting installation. Unless otherwise defined in the 'particular safeguard provisions' referred to in Article 7, no declaration of use is mandatory for transfers between different material balance areas of the same installation.

These reports showing inventory changes, book inventories and corrections shall be sent as soon as possible and, in any case, within 15 days after the end of the month in which the inventory changes occur or are known, either periodically in a consolidated list or individually. For months in which no inventory changes occur, the persons or undertakings concerned may simply send in the form intended for the inventory change report carrying the indication that the situation remained unchanged. Small inventory changes, such as transfers of samples for purposes of analysis, may be grouped, as laid down in the 'particular safeguard provisions' referred to in Article 7 for the installation concerned, in order that they may be reported as a single inventory change.

Article 15

The reports referred to in Article 14 shall be accompanied by concise notes:

- (a) explaining the inventory changes on the basis of the operating data contained in the operating records provided for in Article 11 (a) of this Regulation;
- (b) describing as specified in the 'particular safeguard provisions' referred to in Article 7, the planned operational programme for the installation concerned and, in particular, the taking of a physical inventory.

If the required information is contained in documents which already exist, copies of such documents may take the place of the concise notes.

Material balance report and physical inventory listing*Article 16*

For each material balance area, the persons and undertakings referred to in Article 1 shall transmit to the Commission, in accordance with the specimen set out in Annex III to this Regulation, material balance reports showing:

- (a) beginning physical inventory;
- (b) inventory changes (first increases, then decreases);
- (c) ending book inventory;
- (d) ending physical inventory;
- (e) material unaccounted for.

A physical inventory, in accordance with the specimen set out in Annex IV, listing all batches separately giving, *inter alia*, identification of the materials and giving batch data for each batch thereof and the use, pursuant to Article 9, which the persons or undertakings concerned intend to make of the materials, shall be attached to each material balance report.

These reports shall be transmitted as soon as possible and in any case within 30 days from the date on

which a physical inventory was taken, unless otherwise specified in the 'particular safeguard provisions' referred to in Article 7.

Special reports

Article 17

The persons and undertakings referred to in Article 1 shall transmit to the Commission a special report whenever the circumstances mentioned in Articles 18 and 27 arise.

The type of information to be dealt with in such reports shall be specified in the 'particular safeguard provisions' referred to in Article 7.

The special reports and further details or explanations which may be requested by the Commission in connection with these reports shall be supplied without delay.

Article 18

A special report must be made without delay:

- (a) if, as a result of any unusual incident or circumstances, it is believed that there has been or might be a loss of nuclear material in excess of the limits specified for these purposes in the 'particular safeguard provisions' referred to in Article 7; or
- (b) if the containment has unexpectedly changed from that specified in the 'particular safeguard provisions' referred to in Article 7, to a point where an unauthorized removal of nuclear material has become possible.

The abovementioned obligations shall devolve upon the persons and undertakings concerned as soon as they have become aware of any such loss or sudden change in the containment conditions, or of anything which leads them to believe that there has been such an occurrence. The causes shall also be stated as soon as they are known.

Detailed rules of application

Article 19

In respect of reactors, the obligations laid down in Articles 10 to 16 shall apply under the following conditions.

As far as nuclear transformations are concerned, calculated data will be reported in the inventory change report at the latest when irradiated fuel is transferred from the reactor material balance area. In addition, where appropriate, other procedures for recording and reporting nuclear transformations shall be specified in the 'particular safeguard provisions' referred to in Article 7.

Article 20

Nuclear materials subject to particular safeguard obligations entered into by the Community in an Agreement concluded with a non-Member State or an international organization shall, unless otherwise stipulated by such Agreement, be identified separately for each obligation in the following notifications:

- (a) initial book inventory (Article 13);
- (b) inventory change reports, but excluding book inventories (Article 14);
- (c) physical inventory listings (Article 16); and
- (d) intended imports and exports (Articles 24 and 25).

Unless specifically prohibited in the Agreement referred to above, such separation shall not preclude the physical mixing of materials.

This Article shall not apply to the Agreement or to any other Agreement concluded by the Community and a Member State with the International Atomic Energy Agency.

Article 21

- (a) In any notification referred to in this Regulation, quantities of source materials shall be expressed in kilogrammes and quantities of special fissile materials in grammes.
- (b) The corresponding material accounting records shall be kept in the units referred to in (a) of this Article or in smaller units. They shall be kept in such a manner as to render them trustworthy and, in particular, to comply with current practices in the Member States.
- (c) In the notifications provided for above, quantities may be rounded down to the nearest unit when the first decimal is 0 to 4 and rounded up when the first decimal is 5 to 9.

(d) Unless otherwise provided for in the 'particular safeguard provisions' referred to in Article 7:

- (i) notifications shall indicate the total weight of the elements contained: uranium, thorium or plutonium and also, for enriched uranium, the total weight of the fissile isotopes. The isotopic composition of plutonium, if recorded at the installation for operational needs, shall be made available to the Commission on request;
- (ii) separate line entries in inventory change reports and in physical inventory listings and separate material balance reports must be used for the following categories of nuclear material:
 - depleted uranium,
 - natural uranium,
 - uranium enriched up to 20%,
 - uranium enriched above 20%,
 - plutonium,
 - thorium.

DEROGATIONS AND EXEMPTIONS

Article 22

(a) In order to take account of any particular circumstances in which safeguarded materials are used or produced, the Commission may, in the 'particular safeguard provisions' referred to in Article 7, grant producers and users of nuclear materials a derogation from the rules governing

the form and frequency of notification provided for in this Regulation.

The Commission may so decide especially in the case of installations holding only small quantities which are kept in the same state for long periods.

(b) At the request of the persons or undertakings concerned in accordance with the form set out in Annex VIII, the Commission may exempt the following materials from declaration, provided that they are not processed or stored together with non-exempted nuclear materials:

- special fissile materials which are used in quantities of the order of a gramme or less as sensing components in instruments,
- plutonium with an isotopic concentration of plutonium-238 in excess of 80%,
- nuclear materials which are used exclusively in non-nuclear activities.

If the conditions for exemption cease to be fulfilled, the exemption shall be rescinded. The person or undertaking concerned shall inform the Commission in accordance with the form set out in Annex IX that the conditions for exemption no longer exist.

Article 23

This Regulation shall not apply to holders of finished products used for non-nuclear purposes which incorporate nuclear materials that are virtually irrecoverable.

PART III

TRANSFERS: IMPORTS/EXPORTS

Article 24

(a) The persons and undertakings referred to in Article 1 which export source or special fissile materials to a non-Member State shall give advance notification to the Commission of every such export. Similarly, advance notification shall be given to the Commission:

- in the case of any export from a Member State party to the Agreement to a Member State not party to the Agreement, and

- in the case of any export from the United Kingdom to a Member State party to the Agreement.

However, advance notification is required only:

- (i) where the consignment exceeds one effective kilogramme;
- (ii) where the 'particular safeguard provisions' referred to in Article 7 so specify, in the case of installations habitually transferring

large total quantities of materials to the same State, even though no single consignment exceeds one effective kilogramme.

- (b) Such notification shall be given after the conclusion of the contractual arrangements leading to the transfer and in any case in time to reach the Commission eight working days before the material is to be prepared for shipment.
- (c) Such notification shall be given in accordance with the form set out in Annex V to this Regulation and shall state, *inter alia*,
- the identification and, if possible, the expected quantity and composition of the material to be transferred, and the material balance area from which it will come,
 - the State to which the nuclear material is to be sent,
 - the dates on and locations at which the nuclear material will be prepared for shipment,
 - the approximate dates of dispatch and arrival of the nuclear material,
 - the use which the persons or undertakings concerned had made of the nuclear material.
- (d) If so required for reasons of physical protection, special arrangements concerning the form and transmission of such notification may be agreed upon with the Commission.

Article 25

- (a) The persons and undertakings referred to in Article 1 which import source or special fissile materials from a non-member State shall give advance notification to the Commission of every such import. Similarly, advance notification shall be given to the Commission:
- in the case of any import into a Member State party to the Agreement from a Member State not party to the Agreement, and
 - in the case of any import into the United Kingdom from a Member State party to the Agreement.

However, advance notification is required only:

- (i) where the consignment exceeds one effective kilogramme;
- (ii) where the 'particular safeguard provisions' referred to in Article 7 so specify, in the case of installations to which large total quantities of materials are habitually

transferred from the same State, even though no single consignment exceeds one effective kilogramme.

- (b) Such notification shall be given as far in advance as possible of the expected arrival of the nuclear material and, in any case, on the date of receipt and in time to reach the Commission five working days before the material is unpacked.
- (c) Such notification shall be given in accordance with the form set out in Annex VI and shall state, *inter alia*:
- the identification and, if possible, the expected quantity and composition of the material,
 - the expected date of arrival, the location where and the date on which the nuclear material is expected to be unpacked.
- (d) If so required for reasons of physical protection, special arrangements concerning the form and transmission of such notification may be agreed upon with the Commission.

Article 26

When persons or undertakings not subject to Article 1 decide to export or import nuclear materials referred to in Articles 24 and 25, these persons or undertakings are required to make the notifications foreseen in Articles 24 and 25.

Article 27

A special report as provided for in Article 17 shall be prepared by the persons or undertakings covered by Articles 24 and 25 if, following exceptional circumstances or an incident, they have received information that nuclear materials have been or appear to be lost, particularly when there has been a considerable delay during transfer. In the same circumstances persons or undertakings covered by Article 26 are also required to inform the Commission.

Article 28

Any change of date in the preparation for shipment, in the shipment or in the unpacking of nuclear materials with respect to the dates given in the notifications provided for in Articles 24 and 25, but not a change that gives rise to special reports, shall be communicated without delay, with an indication of the revised dates, if known.

PART IV

SPECIFIC PROVISIONS

ORE PRODUCERS

Article 29

Any person or undertaking extracting ores on the territory of a Member State shall keep accounting records thereof. These records must indicate, in particular, the tonnage and average uranium and thorium content of the ore extracted and of the stock at the mine, and proof of shipment, stating the date, consignee, and quantity. Such records shall be kept for at least five years.

Article 30

No later than the end of January each year, producers of ores shall inform the Commission, in accordance with the form set out in Annex VII, of the amount of material dispatched from each mine during the previous year.

Article 31

Any person or undertaking exporting ores to non-Member States shall inform the Commission thereof, in accordance with the form set out in Annex VII, on the actual date of dispatch.

CARRIERS

Article 32

Any person or undertaking engaged, within the territories of the Member States, in carrying or temporarily storing source or special fissile materials during shipment may accept them or hand them over only against a duly signed and dated receipt. This shall state the names of the parties handing over and receiving the materials and the quantities carried,

together with the nature, form and composition of the materials.

If so required for reasons of physical protection, the specification of the materials transferred may be replaced by a suitable identification of the consignment. Such identification shall be traceable to records held by the persons and undertakings referred to in Article 1 and showing the specification mentioned.

Such documents shall be kept by the contracting parties for at least one year.

Article 33

Documents and papers already held and compiled by persons or undertakings in accordance with existing regulations which apply to them on the territory of the Member States in which they operate may take the place of the documents and receipts provided for in Article 32, provided that such documents and papers contain all the required information.

INTERMEDIARIES

Article 34

Every intermediary whatsoever, in particular authorized agents, brokers, commission or business agents, taking part in the conclusion of any contract for the supply of nuclear materials shall keep all documents relating to the transactions performed by him or on his behalf for at least one year after the expiry of the contract. Such documents shall mention the names of the contracting parties, the date of the contract, the quantity, nature, form and composition together with the origin and destination of the materials.

PART V

SPECIFIC PROVISIONS APPLICABLE IN THE TERRITORIES OF MEMBER STATES WHICH ARE NUCLEAR WEAPON STATES

Article 35

1. The provisions of this Regulation shall not apply:

(a) to installations or parts of installations which have been assigned to meet defence requirements and which are situated on the territory of a Member State not party to the Agreement; or

b) to nuclear materials which have been assigned to meet defence requirements by that Member State.

2. For nuclear materials, installations or parts of installations which are liable to be assigned to meet defence requirements and which are situated on the territory of a Member State not party to the Agreement, the extent of the application of this Regulation and the procedures under it shall be defined by the Commission in consultation and in agreement with the Member State concerned, taking into account the provisions of the second paragraph of Article 84 of the Treaty.

3. It is understood in any event that:

(a) the provisions of Articles 1 to 4, 7 and 8 shall apply to installations or parts of installations which at certain times are operated exclusively with nuclear materials liable to be assigned to meet defence requirements but at other times are operated exclusively with civil nuclear materials;

(b) the provisions of Articles 1 to 4, 7 and 8 shall apply, with exceptions for reasons of national security, to installations or parts of installations to which access could be restricted for such reasons but which produce, treat, separate, reprocess or use in any other way simultaneously both civil nuclear materials and nuclear materials assigned or liable to be assigned to meet defence requirements;

(c) the provisions of Articles 6, and 9 to 37 shall apply in relation to all civil nuclear materials situated in installations or parts of installations as referred to in subparagraphs (a) and (b) above.

PART VI

FINAL PROVISIONS

DEFINITIONS

Article 36

For the purposes of this Regulation:

(a) 'The Agreement' means the Agreement concluded on 5 April 1973 between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the European Atomic Energy Community (Euratom) with the International Atomic Energy Agency, in implementation of paragraphs 1 and 4 of Article III of the Treaty on the non-proliferation of nuclear weapons.

(b) 'Member State party to the Agreement' means the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, Ireland, the Italian Republic, the Grand Duchy of Luxembourg or the Kingdom of the Netherlands.

(c) 'Member State not party to the Agreement' means France or the United Kingdom.

(d) 'Non-Member State' means any State which is not a member of the European Atomic Energy Community.

(e) 'Special fissile materials' means plutonium-239; uranium-233; uranium enriched in uranium-235 or uranium-233, and any substance containing

- one or more of the foregoing isotopes and such other fissile materials as may be specified by the Council, acting by a qualified majority on a proposal from the Commission; the expression 'special fissile materials' does not, however, include source materials nor ores or ore waste.
- (f) 'Uranium enriched in uranium-235 or uranium-233' means uranium containing uranium-235 or uranium-233 or both in an amount such that the abundance ratio of the sum of these isotopes to isotope 238 is greater than the ratio of isotope 235 to isotope 238 occurring in nature. 'Enrichment' means the ratio of the combined weight of uranium 233 and uranium-235 to the total weight of the uranium under consideration.
- (g) 'Source materials' means uranium containing the mixture of isotopes occurring in nature; uranium whose content in uranium-235 is less than the normal; thorium; any of the foregoing in the form of metal, alloy, chemical compound or concentrate; any other substance containing one or more of the foregoing in such a concentration as shall be specified by the Council, acting by a qualified majority on a proposal from the Commission, and any other material which the Council may determine, acting by a qualified majority on a proposal from the Commission. The words 'source materials' shall not be taken to include ores or ore waste.
- (h) 'Ores' means any ore containing, in such average concentration as shall be specified by the Council acting by a qualified majority on a proposal from the Commission, substances from which the source materials defined above may be obtained by the appropriate chemical and physical processing.
- (i) 'Nuclear materials' means any ore, source and special fissile material as defined in paragraphs (e), (f), (g) and (h) above.
- (j) 'Nature' of a material means natural uranium, depleted uranium, uranium enriched in uranium-235 or uranium-233, thorium or plutonium, depending on the case.
- (k) 'Batch' means a portion of nuclear material handled as a unit for accounting purposes at a key measurement point and for which the composition and quantity are defined by a single set of specifications or measurements. The nuclear material may be in bulk form or contained in a number of identifiable items.
- (l) 'Batch data' means the total weight of each element of nuclear material and, in the case of plutonium and uranium, the isotopic composition when appropriate. For reporting purposes the weights of individual items in the batch shall be added together before rounding to the nearest unit.
- (m) 'Book inventory' of a material balance area means the algebraic sum of the most recent physical inventory of that material balance area and of all inventory changes that have occurred since that physical inventory was taken.
- (n) 'Correction' means an entry in an accounting record or a report to rectify an identified mistake or to reflect an improved measurement of a quantity previously entered into the record or report. Each correction must identify the entry to which it pertains.
- (o) 'Effective kilogramme' means a special unit used in safeguarding nuclear material. The quantity in effective kilogrammes is obtained by taking:
- (i) for plutonium, its weight in kilogrammes;
 - (ii) for uranium with an enrichment of 0.01 (1%) and above, its weight in kilogrammes multiplied by the square of its enrichment;
 - (iii) for uranium with an enrichment below 0.01 (1%) and above 0.005 (0.5%), its weight in kilogrammes multiplied by 0.0001; and
 - (iv) for depleted uranium with an enrichment of 0.005 (0.5%) or below, and for thorium, its weight in kilogrammes multiplied by 0.00005.
- (p) 'Inventory change' means an increase or decrease, in terms of batches, of nuclear material in a material balance area.
- (q) 'Key measurement point' means location where nuclear material appears in such a form that it may be measured to determine material flow or

inventory. Key measurement points thus include, but are not limited to, inputs and outputs (including measured discards and storages in material balance areas.

(r) 'Material balance area' means an area such that:

- (i) the quantity of nuclear material in each transfer into or out of each material balance area can be determined; and
- (ii) the physical inventory of nuclear material in each material balance area can be determined when necessary in accordance with specified procedures,

in order that the material balance may be established.

(s) 'Material unaccounted for' means the difference between physical inventory and book inventory.

(t) 'Physical inventory' means the sum of all the measured or derived estimates of batch quantities of nuclear material on hand at a given time within a material balance area, obtained in accordance with specified procedures.

(u) 'Shipper receiver difference' means the difference between the quantity of nuclear material in a batch as stated by the shipping material balance area and as measured at the receiving material balance area.

(v) 'Source data' means those data, recorded during measurement or calibration or used to derive empirical relationships, which identify nuclear material and provide batch data. Source data may include, for example, weight of compounds, conversion factors to determine weight of element, specific gravity, element concentration, isotopic ratios, relationship between volume and manometer readings and relationship between plutonium produced and power generated.

(w) 'Strategic point' means a location selected during examination of design information where, under normal conditions and when combined with the information from all 'strategic points' taken

together, the information necessary and sufficient for the implementation of safeguard measures under the Agreement is obtained and verified; a 'strategic point' may include any location where key measurements related to material accountancy are made and where containment and surveillance measures are executed.

INSTALLATIONS CONTROLLED FROM OUTSIDE THE COMMUNITY

Article 37

Where an installation is controlled by a person or undertaking established outside the Community, any obligations imposed by this Regulation shall devolve upon the local management of the installation.

ANNEXES

Article 38

The Annexes to this Regulation form an integral part thereof. The Commission may make minor technical adjustments thereto.

ENTRY INTO FORCE

Article 39

This Regulation shall enter into force 15 days after its publication in the *Official Journal of the European Communities*.

Without prejudice to Article 40, Commission of the European Atomic Energy Community Regulations No 7 and No 8 are hereby repealed.

Article 40

Articles 9 to 16, 19 and 21 of this Regulation shall apply as from the adoption of the 'particular safeguard provisions' referred to in Article 7.

Until the adoption of those provisions, Articles 2, 5, 7, 8 and 10 of the abovementioned Regulation No 8 shall continue to apply.

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

Done at Brussels, 19 October 1976.

For the Commission
The President
François-Xavier ORTOLI

ANNEX I

QUESTIONNAIRE FOR THE DECLARATION OF THE BASIC TECHNICAL
CHARACTERISTICS OF THE INSTALLATIONS

A. REACTORS

Date

IDENTIFICATION OF THE INSTALLATION

1. Name.
2. Location, exact address with telephone and telex numbers.
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Present status (in operation or expected date of entry into operation).
6. Purpose and type of installation.
7. Operating mode of installation influencing its throughput. (Shift system adopted, approximate dates of operating periods in year, etc.)
8. Layout of installation site. Map showing perimeters and premises of the installation in the form of a site layout; buildings, roads, rivers, railways, etc.
9. Layout of installation:
 - (a) structural containment, fences, and access routes;
 - (b) incoming material storage area;
 - (c) reactor area;
 - (d) test and experiment area, laboratories;
 - (e) outgoing material storage area;
 - (f) nuclear material waste disposal.

NB: 1. Pursuant to Article 79 of the Treaty those subject to safeguard requirements shall notify the authorities of the Member State concerned of any communication they make to the Commission pursuant to Article 78.

2. The reply 'not applicable' can be given to questions which are not applicable. The Commission is still entitled to request any additional information it considers necessary in connection with the relevant questionnaire.

This questionnaire, duly completed and signed, should be forwarded to the Commission of the European Communities, Euratom Safeguards Directorate, 'Jean Monnet' Building, Kirchberg, Luxembourg (Grand Duchy of Luxembourg).

10. Additional main installation data:
 - (a) rated thermal output per reactor for continuous operation;
 - (b) source and special fissionable material;
 - (c) initial core enrichments;
 - (d) moderator;
 - (e) coolant.

GENERAL ARRANGEMENT OF THE INSTALLATION, INCLUDING FEATURES RELATING TO MATERIAL ACCOUNTANCY, CONTAINMENT AND SURVEILLANCE

Description of nuclear material (*)

11. Fuel element and/or assembly outline drawing in sufficient detail to indicate general structure with overall dimensions. (Element is the smallest contained fuel unit; assembly is the combination of elements to a handling unit such as cluster or bundle. Provisions for element exchange should be shown if applicable and indication given if this is a routine operation.)
12. Fuel material (including material in control or shim assemblies if applicable):
 - (a) chemical composition or major alloy constituents;
 - (b) average enrichment per assembly;
 - (c) nominal weight of fuel material per assembly with design tolerances.
13. Cladding material.
14. Method of identifying individual fuel elements and/or assemblies if applicable.
15. Other nuclear material used in the installation (state briefly material, purpose and way of using material, e.g. booster rods).

Flow of nuclear material

16. Flowsheet showing points where nuclear material is identified or measured, material balance areas and inventory locations used for material accountancy and estimated range of inventories of nuclear material in these areas under normal operating conditions.
17. Expected nominal fuel cycle data including (as applicable):
 - (a) reactor core loading;
 - (b) expected burn-up;
 - (c) annual refuelling amount;
 - (d) refuelling interval (on-load or off-load);
 - (e) approximate forecast of throughput and inventory and of receipts and shipments.

(*) Items 11 to 14 are to be answered for each type of assembly in the installation. Terminology consistent with item 11 should be used.

Handling of nuclear material

18. Layout and general arrangement drawings of fresh fuel storage, and description of packaging.
19. Layout and general arrangement drawings of fresh fuel preparation and/or assay room and reactor loading area.
20. General arrangement drawings of fuel transfer equipment for fresh and irradiated fuel, including refuelling machines or equipment.
21. General arrangement drawing of reactor vessel, location of core and openings in vessel, method of fuel handling in vessel.
22. Sketch of core showing the general disposition, lattice, form, pitch and dimensions of core, reflector, location, shapes and dimensions of control elements, experimental and/or irradiation positions.
23. Number and size of channels for fuel elements or assemblies and for control elements in the core.
24. Spent fuel storage:
 - (a) general arrangement drawings of storage site;
 - (b) method of storage;
 - (c) design capacity of storage;
 - (d) equipment for handling irradiated fuel;
 - (e) minimum cooling time before shipment of irradiated fuel;
 - (f) drawing and description of shipping cask for irradiated fuel (as required to explore the possibility of sealing).
25. Nuclear material testing area (if applicable):
 - (a) brief description of the nature of the activities performed;
 - (b) description of major equipment (e.g. hot cell, fuel element decladding and dissolution equipment);
 - (c) description of shipping containers for nuclear material and packaging of waste and scrap (as required to explore the possibility of sealing);
 - (d) storage of unirradiated and irradiated nuclear material;
 - (e) layout and general arrangement drawings for the above, if not covered elsewhere.

Coolant data

26. Coolant flow diagrams as required for heat balance calculations (indicating pressure, temperatures and mass flow rates at major points).

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL**Accountancy system**

27. Nuclear material control and accountancy system (describe item and/or mass accountancy system, including relevant assay measurement methods used with assessed accuracies, supplying specimen blank forms used in all control and accountancy procedures). Length of preservation of such records should be stated.

Physical inventory

28. Description of procedures, scheduled frequency, methods of operator's physical inventory taking (both for item and/or mass accountancy including main assay methods), expected accuracy; access to nuclear material in the core and to irradiated nuclear material outside the core, expected radiation levels.

OTHER INFORMATION RELEVANT TO APPLICATION OF SAFEGUARDS

29. Organization of material accountancy and control.
30. Information on the health and safety rules which have to be observed and with which the inspectors must comply at the installation.

B. CRITICAL (AND ZERO ENERGY) INSTALLATIONS

Date

IDENTIFICATION OF THE INSTALLATION

1. Name.
2. Location, exact address with telephone and telex numbers.
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Present status (in operation or expected date of entry into operation).
6. Purpose and type of installation.
7. Operating mode of installation influencing its throughput. (Shift system adopted, approximate dates of operating periods in year, etc.)
8. Layout of installation site. Map showing perimeters and premises of the installation in the form of site layout; buildings, roads, rivers, railways, etc.
9. Layout of installation:
 - (a) structural containment, fences and access routes;
 - (b) nuclear material storage area(s);
 - (c) fuel element assembling area, laboratories, etc.;
 - (d) critical assembly proper (*).
10. Additional main installation data (*):
 - (a) maximum expected operating power and/or neutron flux;
 - (b) main type(s) of nuclear material and enrichment;
 - (c) moderator;
 - (d) reflector, blanket;
 - (e) coolant.

GENERAL ARRANGEMENT OF THE INSTALLATION, INCLUDING FEATURES RELATING TO MATERIAL ACCOUNTANCY, CONTAINMENT AND SURVEILLANCE**Description of nuclear material**

11. Description by means of drawings or otherwise of all nuclear material in the installation showing:
 - (a) all types of units including normal handling units;
 - (b) chemical composition or main alloy constituents;

(*) To be provided for each critical assembly if more than one in the installation.

- (c) form and dimensions;
- (d) enrichment;
- (e) nominal weight of nuclear material with design tolerances;
- (f) cladding material; and
- (g) method(s) of identifying units.

Location and handling of nuclear material

12. Description by means of layout and general arrangement drawings or otherwise of:
 - (a) nuclear material storage and assembly areas and critical assembly(ies) proper (inventory locations);
 - (b) the estimated range of inventories of nuclear material in these locations;
 - (c) the physical arrangement of equipment used for assembling, testing and measuring nuclear material; and
 - (d) the routes of nuclear material.
13. Sketch of critical assembly core showing core support structure, shielding and heat removal arrangements with description (to be provided for each critical assembly if more than one in the installation).

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL

Accountancy system

14. Description of the nuclear material control and accountancy system (describe item and/or mass accountancy system, including main assay methods used with assessed accuracies), supplying specimen blank forms used in all control and accountancy procedures. Length of preservation of such records should be stated.

Physical inventory

15. Description of procedures, scheduled frequency, methods of operator's physical inventory taking (both for item and/or mass accountancy including main assay methods), expected accuracy; access to nuclear material in the core and to irradiated nuclear material outside the core, expected radiation levels.

OTHER INFORMATION RELEVANT TO APPLICATION OF SAFEGUARDS

16. Organization of material accountancy and control.
17. Information on the health and safety rules which have to be observed and with which the inspectors must comply at the installation.

C. CONVERSION, FABRICATION AND REPROCESSING PLANTS

Date

IDENTIFICATION OF THE INSTALLATION

1. Name.
2. Location, exact address with telephone and telex numbers.
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Present status (in operation or expected date of entry into operation).
6. Purpose and type of installation.
7. Operating mode of installation influencing its throughput. (Shift system adopted, approximate dates of operating times in year, etc.)
8. Layout of installation site. Map showing perimeters and premises of the installation in the form of a site layout; buildings, roads, rivers, railways, etc.
9. Layout of installation:
 - (a) structural containment, fences and access routes;
 - (b) routes followed by nuclear material;
 - (c) incoming nuclear material storage;
 - (d) each main processing area and process laboratory;
 - (e) test or experimental areas;
 - (f) outgoing nuclear material storage;
 - (g) waste disposal facilities;
 - (h) analytical laboratory.

GENERAL ARRANGEMENT OF THE INSTALLATION, INCLUDING FEATURES RELATING TO MATERIAL ACCOUNTANCY, CONTAINMENT AND SURVEILLANCE

Flow, location and handling of nuclear material

10. Flowsheet showing points where nuclear material is identified or measured, material balance areas and inventory locations used for material accountancy and estimated range of inventories of nuclear material in these areas under normal operating conditions. The description should include (if applicable):
 - (a) batch size or flow rate;
 - (b) method of storage or packing;
 - (c) storage capacity;
 - (d) general forecasts of throughput and inventory and of receipts and shipments.

11. In addition to item 10 above, feed storage areas for reprocessing plants should be described by a general arrangement drawing showing:
 - (a) locations for fuel elements and handling equipment;
 - (b) type of fuel elements including nuclear material content and enrichment.
12. In addition to item 10 above, the description of the recycle stage of the process should include if available:
 - (a) duration of temporary storage;
 - (b) schedules for external recycling (if applicable).
13. In addition to item 10 above, the description of the discard stage of the process should include the discard method (disposal or storage).
14. Under equilibrium conditions for each flowsheet referred to in items 10 and 16 and assuming the modes of operation in item 7, state:
 - (a) the nominal throughput per year;
 - (b) the in-process inventory based on design capacity.
15. Describe the normal procedures adopted for complete or partial clean-out of the plant. Include description of special sampling and measurement points associated with the clean-out procedure and subsequent physical inventory taking, if not described in item 10 above.

Description of nuclear material

16. Describe, by means of flowsheets or otherwise, the estimated flow and inventory of all nuclear material for storage and process areas. The description should include:
 - (a) physical and chemical form;
 - (b) content range or expected upper limits for each category of solid or liquid discard material;
 - (c) enrichment range.

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL

Accounting system

17. Description of the accountancy system used to record and report accountancy data and establish material balances, supplying specimen forms used in all procedures. Length of preservation of such records should be stated.
18. Indicate when and how often material balances are made, including any during campaigns. Describe method and procedure for adjustment of accounts after a physical inventory taking.
19. Describe procedure for handling shipper/receiver differences and method of adjustment of accounts.
20. Describe procedure for making corrections to accounts due to procedural or clerical mistakes and the effect on shipper/receiver differences, if applicable.

Physical inventory

21. Reference is made to item 15. Identify the items of equipment on the flowsheets of items 10 and 16 to be regarded as containers for nuclear material under physical inventory conditions. State the timing of physical inventory taking during the campaign.

Methods for measurement, sampling and analysis

22. Method of establishing each measurement at the point indicated should be described; equations or tables used and calculations made to determine actual quantities of weights or volumes should be identified. Recording of data automatically or manually should be stated. Method of and practical procedures for sampling for each point indicated should be described.
23. Analytical methods used for accountancy purposes should be described. Reference to a manual or report would be suitable.

Control of measurement accuracy

24. Describe measurement quality control programme relevant for material accounting including programmes (together with accuracy values) for the continuing appraisal of analytical, weight, volume and sampling precisions and biases, and for the calibration of associated equipment; method of calibrating the measuring equipment referred to in item 23; type and quality of standards used for analytical methods referred to in item 23; type of analytical equipment used, method of calibration and frequency.

Statistical evaluation

25. Describe methods of statistical evaluation of data accumulated in measurement control programmes for the evaluation of precision and accuracy of measurements and the estimation of measurement uncertainty (i.e. determination of the random and systematic errors of the measurements and the associated limits of error; statistical procedures used to combine individual measurement error estimates to obtain the overall limits of error for S R differences, the book inventory, the physical inventory and MUF).

OTHER INFORMATION RELEVANT TO APPLICATION OF SAFEGUARDS

26. Organization of material accountancy and control.
27. Information on the health and safety rules which have to be observed and with which the inspectors must comply at the installation.

D. STORAGE INSTALLATIONS (*)

Date

IDENTIFICATION OF THE INSTALLATION

1. Name.
2. Location, exact address with telephone and telex numbers.
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Present status (in operation or expected date of entry into operation).
6. Purpose and type of installation.
7. Layout of installation. Structural containment, fences and access routes, if appropriate.

GENERAL ARRANGEMENT OF THE INSTALLATION, INCLUDING FEATURES RELATING TO MATERIAL ACCOUNTANCY, CONTAINMENT AND SURVEILLANCE**Description of nuclear material**

8. Description by means of drawings or otherwise of all nuclear material in the installation showing:
 - (a) all types of units including normal handling units;
 - (b) chemical composition or main alloy constituents;
 - (c) form and dimensions;
 - (d) enrichment;
 - (e) nominal weight of nuclear material with design tolerances;
 - (f) cladding materials;
 - (g) methods of identifying units.

Locations and handling of nuclear material

9. Description by means of layout and general arrangement drawings or otherwise of:
 - (a) nuclear material storage areas (inventory locations);
 - (b) the estimated range of inventories of nuclear material in these locations;
 - (c) nuclear material storage and/or shipping containers;
 - (d) the routes and equipment used for movement of nuclear material, if applicable.

(*) Separate installations not normally associated with enrichment, conversion, fabrication, reactors, and chemical re-processing and recovery installations.

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL**Accountancy system**

10. Description of the nuclear material control and accountancy system (describe item and/or mass accountancy system, including main assay methods used with assessed accuracies), supplying specimen blank forms used in all control and accountancy procedures.

Physical inventory

11. Description of procedures, scheduled frequency, methods of operator's physical inventory taking (both for item and/or mass accountancy including main assay methods), and expected accuracy.

OTHER INFORMATION RELEVANT TO APPLICATION OF SAFEGUARDS

12. Organization of material accountancy and control.
13. Information on the health and safety rules which have to be observed and with which the inspectors must comply at the installation.

E. ISOTOPE SEPARATION PLANTS

Date

IDENTIFICATION OF THE INSTALLATION

1. Name.
2. Location, exact address with telephone and telex numbers
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Present status (in operation or expected date of entry into operation).
6. Building schedule (if installation not in operation):
 - (a) date building starts;
 - (b) date of installation acceptance;
 - (c) commissioning date.
7. Purpose and type of installation (nominal separation capacity, enrichment facilities, etc.).
8. Operating mode of installation influencing its throughput. (Shift system adopted, approximate dates of operating times in year, etc.)
9. Layout of installation site. Map showing perimeters and premises of the installation in the form of a site layout; buildings, roads, rivers, railways, etc.
10. Layout of installation:
 - (a) structural containment, fences and access routes;
 - (b) containment of certain parts of the installation;
 - (c) routes followed by nuclear material;
 - (d) incoming nuclear material storage;
 - (e) each main processing area and process laboratory, including weighing and sampling area, decontamination, purification and feed areas, etc.;
 - (f) test or experimental areas;
 - (g) outgoing nuclear material storage;
 - (h) waste disposal facilities;
 - (i) analytical laboratory.

GENERAL ARRANGEMENT OF THE INSTALLATION, INCLUDING FEATURES RELATING TO MATERIAL ACCOUNTANCY, CONTAINMENT AND SURVEILLANCE

Flow, location and handling of nuclear material

11. Description by means of diagrams or otherwise of storage areas and process areas. The description should include (if applicable):

- (a) sampling and measuring points;
 - (b) batch size and/or flow rate;
 - (c) method of storage or packing;
 - (d) storage capacities.
12. In addition to item 11 above, the description of the installation should include:
- (a) separation capacity;
 - (b) enrichment techniques or methods;
 - (c) possible points for feed, product and tails;
 - (d) recycling facilities;
 - (e) type and size of UF₆ cylinders used and filling and emptying methods.
13. Power consumption should be given, where necessary.
14. Each diagram should indicate, under equilibrium conditions:
- (a) nominal throughput per year;
 - (b) physical inventory of in-process materials;
 - (c) material loss rate owing to leakage, decomposition, deposition, etc.;
 - (d) arrangements for regular plant maintenance (periodic shutdown or continuous component replacement, etc.).
15. Describe special sampling and measurement points associated with decontamination of off-process equipment for maintenance or replacement.
16. Describe process waste disposal point, including disposal method, storage period, type of disposal, etc.

Description of nuclear material

17. Describe, by means of flowsheets or otherwise, the estimated flow and inventory of all nuclear material for storage and process areas. The description should include:
- (a) physical and chemical form;
 - (b) enrichment range for feed, product and tails;
 - (c) content range or expected upper limits for each category of solid or liquid discard material.

NUCLFAR MATERIAL ACCOUNTANCY AND CONTROL

Accountancy system

18. Description of the accountancy system used to record and report accountancy data and to establish material balances, supplying specimen forms used in all procedures.
19. Indicate when and how often material balances are made, including any during campaigns. Describe method and procedure for adjustment of accounts after a physical inventory taking.
20. Describe procedure for handling shipper/receiver differences and method of adjustment of accounts.

21. Describe procedure for making corrections to accounts due to procedural or clerical mistakes and the effect on shipper/receiver differences, if applicable.

Physical inventory

22. Identify the items of equipment on the flowsheets of items 11 and 17 to be regarded as containers for nuclear material under physical inventory conditions. State the timing of physical inventory taking.

Methods for measurement, sampling and analysis

23. Refer to the flowsheets of items 11 and 17 for location of sampling and measurement points.
24. Method of establishing each measurement at the point indicated should be described; equations or tables used and calculations made to determine actual quantities of weights or volumes should be identified. Recording of data automatically or manually should be stated. Method of and practical procedures for sampling for each point indicated should be described. Indicate number of samples taken and rejection criteria.
25. Analytical methods used for accountancy purposes should be described. Reference may be made to a manual or report.

Control of measurement accuracy

26. Describe programmes for the continuous appraisal of weight, volume and sampling precision and biases and for the calibration of associated equipment.
27. Describe type and quality of standards used for analytical methods referred to in paragraph 25, type of analytical equipment used, method of calibration and frequency.

Statistical evaluation

28. Describe statistical evaluation programmes for data accumulated in control programmes for weight, volume, sampling and analytical measurements (i.e. determination of the random and systematic errors of the measurements and associated limits of error); statistical methods used to combine individual measurement error estimates to obtain the overall limits of error for S/R differences, the book inventory, the physical inventory and MUF.

OTHER INFORMATION RELEVANT TO APPLICATION OF SAFEGUARDS

29. Organization of material accountancy and control.
30. Information on the health and safety rules which have to be observed and with which the inspectors must comply at the installation.

F. INSTALLATIONS USING NUCLEAR MATERIAL IN QUANTITIES EXCEEDING ONE EFFECTIVE KILOGRAMME

Date

For any installation of a type not referred to in Sections A to E using more than one effective kilogramme per annum, the questionnaire includes the following:

- identification of the installation;
- general arrangement of the installation, including features relating to material accountancy, containment and surveillance;
- nuclear material accountancy and control system, including techniques for physical inventory taking;
- other information relevant to the application of safeguards.

The information required under these headings is, as applicable, the same as described in the questionnaires for the types of installations coming under Sections C, D and E.

G. OTHER INSTALLATIONS (*)

Date

IDENTIFICATION OF THE INSTALLATION AND OF THE NUCLEAR MATERIAL

1. Name
2. Location, exact address with telephone and telex numbers.
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Type of nuclear material.
6. Description of containers used for storage and handling (as required to explore the possibility of sealing).
7. Description of the use of the nuclear material.

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL

8. General description of the existing and proposed procedures for nuclear material accountancy and control, including procedures for physical inventory taking.
9. Organization of material accountancy and control.

(*) The term 'other' denotes all the installations not covered by Sections A to F, and where nuclear material in quantities not exceeding one effective kilogramme is habitually used.

MBA (2)				
1	2	3	4	5
I				

COMMISSION OF THE EUROPEAN COMMUNITIES
EURATOM SAFEGUARDS

ANNEX II

INVENTORY CHANGE REPORT

Reporting installation

Reporting period

Corresponding installation

(1)

from to

(1)

Date			KAP Measurement Type of inven- to; change	Corres- ponding MBA	Batch designation	Number of items	Material description	Element	Weight of element	Unit Isotope	Weight of fisible isotopes	Unit Obligation	Corresponding information	Original date			
D	M	Y												D	M	Y	
(3)	(3)	(3)	(4)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(19)	(20)	(21)	(22)	(23)
6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23

Remarks (25)

Isotopic data (23)				
U-233	U-234	U-235	U-236	U-238
Pu-238	Pu-239	Pu-240	Pu-241	Pu-242
Concise notes (24)				

435

Date and place of

Name and position of responsible signatory

Signature

EXPLANATORY NOTES

(1) Installation:

Name and address of the reporting installation and, in the event of a transfer, name and address of the corresponding installation (receiver in the case of shipment and shipper in the case of receipt).

(2) MBA:

Code of the reporting material balance area. This code is notified to the installation concerned in the particular safeguard provisions.

(3) Date:

Day, month and year on which the change in inventory occurred.

(4) KMP:

Key measurement point. The codes are notified to the installation concerned in the particular safeguard provisions. The code relevant to the inventory change reported should be used.

(5) Measurement:

The basis on which the quantity of nuclear material reported was established has to be indicated. One of the following codes must be used as appropriate:

Measured	Estimated	Explanation
M	E	In the reporting material balance area
N	F	In another material balance area
T	G	In the reporting material balance area when the weights have already been given in a previous inventory change report or physical inventory listing
L	H	In another material balance area when the weights have already been given in a previous inventory change report or physical inventory listing for the present material balance area

(6) Type of inventory change:

The type of inventory change must be reported. One of the following codes must be used:

Keyword	Code	Explanation
Receipt	RD	Receipt of nuclear material from a material balance area within the Community

Keyword	Code	Explanation
Import	RF	Import of nuclear material from outside the Community
Receipt from non-safeguarded activity	RN	Receipt of nuclear material from a non-safeguarded activity (Article 35)
Shipment	SD	Transfer of nuclear material to a material balance area within the Community
Export	SF	Export of nuclear material outside the Community
Shipment to non-safeguarded activity	SN	Transfer of nuclear material to a non-safeguarded activity (Article 35)
Measured discards	LD	Quantity of nuclear material, measured or estimated on the basis of measurements, which has been disposed of from processing in such a way that it is not suitable for further nuclear use. The quantity of nuclear material involved is to be subtracted from the inventory of the material balance area
Transfer to retained waste	TW	Quantity of waste, measured or estimated on the basis of measurements, which has been transferred to a specific location within the material balance area, from which it could be retrieved. The quantity of nuclear material involved is to be subtracted from the inventory of the material balance area. (Retained waste is understood to include nuclear material which is regarded economically irrecoverable by current technology)
Retransfer from retained waste	FW	Retransfer of a quantity of nuclear material from the retained waste category to the inventory of the material balance area. This applies whenever nuclear material in the retained waste category is removed from the specific location within the material balance area either for processing at the material balance area or for shipment from the material balance area

Keyword	Code	Explanation
Discard from retained waste	WD	Transfer of a quantity of nuclear material from the retained waste category to measured discards. This inventory change replaces the two inventory changes 'Retransfer from retained waste (FW)' and 'Measured discards (LD)'. The quantity of nuclear material involved does not affect the inventory of the material balance area
Accidental loss	LA	Irretrievable and inadvertent loss of a known quantity of nuclear material as the result of an operational accident
Exemption	EU	Exemption of a quantity of nuclear material from declaration (Article 22). The quantity of nuclear material involved is to be subtracted from the inventory of the material balance area
De-exemption	DU	De-exemption of a quantity of nuclear material previously exempted from declaration (Article 22). The quantity of nuclear material involved is to be added to the inventory of the material balance area
Category change	CC	Accountancy transfer of a quantity of nuclear material from one category (Article 21) to another
Rebatching	RB	Accountancy transfer of a quantity of nuclear material from one batch to another. To be used only if batch-follow-up is required in the particular safeguard provisions
Change in particular obligation	CR	Accountancy transfer of a quantity of nuclear material from one particular safeguard obligation (Article 20), to which the nuclear material is subject, to another
Change in use	CU	Accountancy transfer of a quantity of nuclear material from one use (Article 9), to which the material was assigned, to another
Nuclear transformation	NT	Increase or decrease in the quantity of nuclear material due to nuclear transformation, e.g. by fission, capture or radioactive decay

Keyword	Code	Explanation
Shipper/receiver difference	DI	Shipper/receiver difference (Article 36 (u))
New measurement	NM	Quantity of nuclear material accounted for in the material balance area being the difference between a newly measured quantity and the quantity formerly accounted for, and which is neither a shipper/receiver difference nor a correction (Information under this heading will include differences resulting from physical inventories taken by the plant operator for his own purposes)
Roundings	RA	Rounding adjustment to make the sum of rounded quantities reported in a given period coincide with the ending book inventory of the material balance area, if appropriate
Ending book inventory	BA	Book inventory at the end of a month, separate for each category of nuclear material
No change	NC	No inventory change during the month

(7) **Corresponding MBA:**

For certain inventory changes listed below, the code of the corresponding material balance area must be reported.

(a) *Receipt (RD):*

Code of the shipping material balance area.

(b) *Import (RF):*

Code of the exporting material balance area (if unknown, the country code of the exporting State is sufficient).

(c) *Shipment (SD):*

Code of the receiving material balance area.

(d) *Export (SF):*

Code of the importing material balance area (if unknown, the country code of the importing State is sufficient).

(8) **Batch designation:**

The batch designation may be chosen by the operator, however:

(a) in the case of the inventory change 'Receipt (RD)', the batch designation chosen by the shipper must be used;

(b) a batch designation must not be used again for another batch in the same material balance area;

(c) if batch-follow-up is required in the particular safeguard provisions, the same batch designation as previously used for that batch must be repeated. No two batches with the same batch designation must exist at the same time in the material balance area (the batch designation can be changed in this case using the inventory change 'Rebatching (RB)').

(9) Number of items:

The number of similar items of which the batch consists must be reported. If an inventory change consists of several entry lines, the number of items in the batch is given by the sum of the number of items in the single entry lines.

For concise notes consisting of several entry lines, these columns should be used for numbering in sequential order, see (24).

(10) Material description:

The following codes must be used. They must be used in the order of the following categories:

(a) Form (columns 32 and 33):

Main category	Subcategory	Code
Ores	—	OR
Concentrates	—	YC
Uranium hexafluoride (UF ₆)	—	U6
Uranium tetrafluoride (UF ₄)	—	U4
Solutions	Nitrate	LN
	Fluoride	LF
	Other	LO
Powder	Homogeneous	PH
	Heterogeneous	PN
Ceramics	Pellets	CP
	Spheres	CS
	Other	CO
Metal	Pure	MP
	Alloys	MA
Fuel	Rods, pins	ER
	Plates	EP
	Bundles	EB
	Assemblies	EA
	Other	EO
Sealed sources	—	QS
Small quantities	}	SS
Samples		
Scrap	Homogeneous	SH
	Heterogeneous (cleanouts, clinkers, sludges, fines, other)	SN

Main category	Subcategory	Code
Solid waste	Hulls	AH
	Mixed (plastics, gloves, papers, etc.)	AM
	Contaminated equipment	AC
	Other	AO
Liquid waste	Low active	WL
	Medium active	WM
	High active	WH

(b) *Type of container or fuel element (column 34):*

Type of container	Code
Cylinder	C
Pack	P
Drum	D
Discrete fuel unit	S
Bird cage	B
Bottle	F
Tank or other container	T
Other	O

(c) *State of nuclear material (column 35):*

State	Code
Fresh nuclear material	F
Irradiated nuclear material	I
Retained waste	W
Irrecoverable material	N
Recoverable material	R

(11) Element:

The following categories of nuclear material must be used:

Category	Code
Depleted uranium	D
Natural uranium	N
Low enriched uranium (up to and including 20% enrichment)	L
High enriched uranium (above 20% enrichment)	H
Plutonium	P
Thorium	T

If a batch contains more than one category of nuclear material, separate entry lines must be used for each category.

(12) Weight of element:

The weight of the element referred to in (11) must be reported. The following units should be used: at least grammes of plutonium and enriched uranium, at least kilogrammes of thorium, natural uranium and depleted uranium. Nevertheless, the decimal digits appearing in the accounting records could be reported. In the case of the inventory changes 'Nuclear transformation (NT)', 'Shipper/receiver difference (DI)', 'New measurement (NM)' and 'Roundings (RA)', the quantities decreasing the inventory must be marked with a minus in front of the figure.

(13) Unit:

The unit of the weight of element must be identified if it is different from the standard units indicated in (12). Use the code K for kilogrammes or the code G for grammes.

(14) Isotope:

This code indicates the kind of fissile isotopes involved and should only be reported in the case the weight of fissile isotopes is reported. The following codes should be used:

Code	Explanation
G	U-235
K	U-233
J	U-235 plus U-233

(15) Weight of fissile isotopes:

Unless otherwise stated in the particular safeguard provisions, the weight of fissile isotopes must only be reported for enriched uranium and category changes involving enriched uranium. The same unit as for the corresponding weight of element should be used. The remarks under (12) concerning the sign of the figure apply also here.

(16) Unit:

The unit of the weight of fissile isotopes must be identified if it is different from the standard units indicated in (15). Use the code K for kilogrammes or the code G for grammes.

(17) Obligation:

Indication of the particular safeguard obligation assumed by the Community under an Agreement concluded with a third non-member State or an international organization, to which the nuclear material is subject (Article 20). The Commission will communicate to the installations the appropriate codes and any subsequent modifications.

(18) Use:

Indication, by means of a two character code, of the use of the nuclear material (Article 9). The indication of the use mandatory only for transfers into and out of an installation (Article 14). The code to be applied should be defined by the installation concerned under the following conditions:

- (a) all nuclear materials assigned to the same use must be identified by the same code;
- (b) the significance of a code which is used for the first time must be communicated to the Commission in advance;
- (c) different uses must be identified by means of different codes;
- (d) if, within the same installation, the nuclear material is assigned to another use than previously reported, this change has to be reported by means of the inventory change 'Change in use (CU)'.

(19) Corresponding information:

For certain inventory changes, listed below, corresponding information must be reported.

(a) *Category change (CC):*

Code of the category of nuclear material before the change. (The corresponding code after the change must be reported in (11)).

(b) *Change in particular obligation (CR):*

Code of the particular safeguard obligation, to which the nuclear material is subject, before the change. (The corresponding code after the change must be reported in (17)).

(c) *Change in use (CU):*

Code of the use, to which the nuclear material was assigned, before the change. (The corresponding code after the change must be reported in (18)).

(d) *Rebatching (RB):*

Batch designation before rebatching which applies only if batch-follow-up is required in the particular safeguard provisions and the operator wishes to change an existing batch designation. (The batch designation after the rebatching must be reported in (8)).

(20) Entry:

This column is provided solely for the indication of particular entry lines and must be completed only in the following cases:

Code	Explanation
I	The entry line contains the isotopic composition, see (23)
N	The entry line contains a concise note, see (24)

(21) Correction:

Corrections have to be made by deleting the wrong entry line(s) and adding the correct one(s). The following codes must be used:

Code	Explanation
D	Deletion. The entry line to be deleted must be repeated in its entirety (up to and including column 73), except (3) which must show the date on which the deletion was made in the accounting records
A	Addition. The correct entry line must be reported in its entirety (up to and including column 73). In (3), the date on which the addition was made to the accounting records, must be reported

(22) Original date:

In the case of a correction, the day, month and year, on which the entry line to be corrected was originally made, must be reported.

(23) Isotopic data:

If so specified in the particular safeguard provisions, the percentage by weight of the isotopes should be reported. An accuracy of at least two decimal places is required. The information in (2) to (4), (6), and (8) to (11) of the entry line, to which the isotopic data refer, must be repeated in the relevant columns of this entry line.

(24) Concise notes:

An explanation of an inventory change should be given (Article 15 of this Regulation). The information in (2) to (6), (8), (10) and (11) of the entry line, to which the concise note refers, must be repeated in the relevant columns of this entry line.

Concise notes can also be reported under (25) on a separate sheet.

(25) Remarks:

Space available to the operator.

GENERAL REMARKS CONCERNING THE COMPLETION OF THE REPORT FORMS

1. In the case of transfer of nuclear material, the shipper must provide the receiver with all the necessary information for the inventory change report.
2. In the cases referred to in (19), the differences are reported directly in a single entry line (direct accounting). However, the operator is free to report additional information as line entries for example to show the derivation of these differences provided that he codes this information in an agreed manner.
3. All the appropriate columns should be completed. The information should be entered in the correct spaces.
4. If the Commission has so agreed, reports may be produced by computer and may be sent to the Commission in computer readable form, provided that all the information required by this Regulation is included in them.
5. If numerical data contain fractions of units, the decimal point should be used to separate the decimal places.
6. The following 54 characters may be used: the 26 capital letters A to Z, figures 0 to 9 and the characters 'plus', 'minus', 'slash', 'asterisk', 'space', 'equal', 'greater than', 'less than', 'point', 'comma', 'open bracket', 'close bracket', 'colon', 'dollar', 'per cent', 'quotation mark', 'semi-colon' and 'question mark'. The letter 'O' should be slashed to avoid confusion with the figure '0'.
7. Pursuant to Article 79 of the Treaty, those subject to safeguard requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to that Article.
8. The forms, duly completed and signed, should be forwarded to the Commission of the European Communities, Euratom Safeguards Directorate, 'Jean Monnet' Building, Kirchberg, Luxembourg. (Grand Duchy of Luxembourg).

EXPLANATORY NOTES

(1) Installation:

Name and address of the reporting installation.

(2) Start of reporting period:

Date on which the reporting period starts, i.e. at 00.00 hrs on the day following the day on which the previous physical inventory was taken.

(3) Category:

Category of nuclear material, for which the material balance report is established.

(4) MBA:

Code of the reporting material balance area. This code is notified to the installation concerned in the particular safeguard provisions.

(5) Date:

Day, month and year on which the present physical inventory was taken. The reporting period closes at 24.00 hrs on that date.

(6) Inventory information:

The different types of inventory information should be entered, if appropriate, in the sequence indicated below. The following codes must be used:

Keyword	Code	Explanation
Beginning physical inventory	PB	Physical inventory at the beginning of the reporting period
Inventory changes (for codes see (6) of Explanatory Notes to Annex II)		For each type of inventory change, one consolidated entry line has to be made for the entire reporting period (first increases, then decreases)
Ending book inventory	BA	Book inventory at the end of the reporting period
Ending physical inventory	PE	Physical inventory at the end of the reporting period
Material unaccounted for	MF	Material unaccounted for. Must be calculated as 'Ending physical inventory (PE)' minus 'Ending book inventory (BA)'

(7) Element:

Separate material balance reports have to be established for each category of nuclear material. The codes given in (11) of the Explanatory Notes to Annex II must be used.

(8) to (12):

Explanatory Notes (12), (13), (14), (15) and (16) to Annex II are applicable.

(13) Correction:

Corrections have to be made by deleting the wrong entry line(s) and adding the correct one(s). The following codes must be used:

Code	Explanation
D	Deletion. The entry line to be deleted must be repeated in its entirety (up to and including column 73)
A	Addition. The correct entry line must be reported in its entirety (up to and including column 73)

(14) Remarks:

Space available to the operator.

GENERAL REMARKS CONCERNING THE COMPLETION OF THE REPORT FORMS

General remarks 3, 4, 5, 6, 7 and 8 at the end of the Explanatory Notes to Annex II are applicable *mutatis mutandis*.

EXPLANATORY NOTES

(1) Installation:

Name and address of the reporting installation.

(2) MBA:

Code of the reporting material balance area. This code is notified to the installation concerned in the particular safeguard provisions.

(3) Date:

Day, month and year on which the physical inventory was taken reflecting the situation at 24.00 hrs.

(4) KMP:

Key measurement point. The codes are notified to the installation concerned in the particular safeguard provisions.

(5) Measurement:

Explanatory Note (5) to Annex II is applicable.

(6) Batch designation:

If batch-follow-up is required in the particular safeguard provisions, the batch designation previously used for that batch in an inventory change report or in a previous physical inventory listing must be repeated.

(7) to (16):

Explanatory Notes (9), (10), (11), (12), (13), (14), (15), (16), (17) and (18) to Annex II are applicable.

(17) Correction:

Corrections have to be made by deleting the wrong entry line(s) and adding the correct one(s). The following codes must be used:

Code	Explanation
D	Deletion. The entry line to be deleted must be repeated in its entirety (up to and including column 73)
A	Addition. The correct entry line must be reported in its entirety (up to and including column 73)

(18) Remarks:

Space available to the operator.

GENERAL REMARKS CONCERNING THE COMPLETION OF THE REPORT FORMS

If on the date the physical inventory was taken there is no nuclear material in the material balance area, only (1), (2), (3) and (9) above should be completed on the report.

General remarks 3, 4, 5, 6, 7 and 8 at the end of the Explanatory Notes to Annex II are applicable *mutatis mutandis*.

ANNEX V

COMMISSION OF THE EUROPEAN COMMUNITIES
EURATOM SAFEGUARDS

ADVANCE NOTIFICATION OF EXPORTS OF NUCLEAR MATERIAL

- (1) Material balance area
Code :
- (2) Installation:
(Shipper) Installation :
(Receiver)
- (3) Quantities:
- (4) Chemical composition:
- (5) Enrichment or isotopic composition:
- (6) Physical form:
- (7) Number of items:
- (8) Description of containers and seals:
- (9) Shipment identification data:
- (10) Means of transport:
- (11) Location where material will be stored or prepared:
- (12) Last date when material can be identified:
- (13) Approximate dates of dispatch:
Expected dates of arrival:
- (14) Use:
- (15) International agreement:
— Commission authorization:
— Intervention of Supply Agency:

Name and position of responsible signatory:
.....

Date and place of dispatch of notification:
.....

Signature:

EXPLANATORY NOTES

- (1) Code of the reporting material balance area notified to the installation concerned in the particular safeguard provisions.
- (2) Name, address and country of the installation shipping and of the installation receiving the nuclear material. In the case of export out of the United Kingdom, the receiver of ultimate destination should also be indicated where applicable.
- (3) The total weight of the elements shall be identified in kilogrammes for natural and depleted uranium and for thorium, and in grammes for enriched uranium and plutonium. The weight of fissile isotopes shall be identified, if applicable.
- (4) Chemical composition shall be identified.
- (5) If applicable, the degree of enrichment or the isotopic composition shall be identified.
- (6) Use the description of materials as laid out in Annex II (10) to this Regulation.
- (7) The number of items included in the shipment shall be identified.
- (8) Description (type) of containers, including features that would permit sealing.
- (9) Shipment identification data (e.g. container markings or numbers).
- (10) Indicate, as applicable, the means of transport.
- (11) Indicate the location within the material balance area where the nuclear material is prepared for shipping and can be identified, and where its quantity and composition can if possible be verified.
- (12) Last date when material can be identified and when its quantity and composition can if possible be verified.
- (13) Approximate dates of dispatch and of expected arrival at destination.
- (14) Indicate the use to which the nuclear material has been assigned.
- (15) Give in particular as appropriate :
 - the Agreement concluded by the Community with a non-Member State or an international organization under which the material is transferred;
 - the Commission authorization under Article 59 of the Treaty;
 - the date on which the contract was concluded or considered as concluded by the Supply Agency and any useful references;
 - for jobbing contracts (Article 75 of the Treaty) and for contracts for the supply of small quantities of material (Article 74 of the Treaty and Commission Regulation No 17/66/Euratom, as amended by Regulation (Euratom) No 3137/74), date of notification to the Supply Agency and any useful references.

NB: Pursuant to Article 79 of the Treaty, those subject to safeguard requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to that Article.

This form, duly completed and signed, must be forwarded to the Commission of the European Communities, Euratom Safeguards Directorate, 'Jean Monnet' Building, Kirchberg, Luxembourg (Grand Duchy of Luxembourg).

ANNEX VI

COMMISSION OF THE EUROPEAN COMMUNITIES
EURATOM SAFEGUARDS

ADVANCE NOTIFICATION OF IMPORTS OF NUCLEAR MATERIAL

- (1) Material balance area
Code:
- (2) Installation: Installation:
(Receiver) (Shipper)
.....
.....
- (3) Quantities:
- (4) Chemical composition:
- (5) Enrichment or isotopic composition:
- (6) Physical form:
- (7) Number of items:
- (8) Description of containers and seals:
- (9) Means of transport:
- (10) Date of arrival:
- (11) Location where materials will be unpacked
- (12) Date(s) when material will be unpacked:
- (13) — International agreement:
- Intervention of Supply Agency:

Name and position of responsible signatory:
.....

Date and place of dispatch of notification:
.....

Signature:

EXPLANATORY NOTES

- (1) Code of the reporting material balance area notified to the installation concerned in the particular safeguard provisions.
- (2) Name, address and country of the installation receiving and of the installation shipping the nuclear material.
- (3) The total weight of the elements shall be identified in kilogrammes for natural and depleted uranium and for thorium, and in grammes for enriched uranium and plutonium. The weight of fissile isotopes shall be identified if applicable.
- (4) Chemical composition shall be identified.
- (5) If applicable, the degree of enrichment or the isotopic composition shall be identified.
- (6) Use the description of materials as laid out in Annex II (10) to this Regulation.
- (7) The number of items included in the shipment shall be identified.
- (8) Description (type) of containers, and if possible, of the seals affixed.
- (9) Indicate as applicable, the means of transport.
- (10) Expected or actual date of arrival in the reporting material balance area.
- (11) Indicate the location within the material balance area where the material will be unpacked and can be identified and where its quantity and composition can be verified.
- (12) Date(s) when material will be unpacked.
- (13) Give in particular as appropriate:
 - the Agreement concluded by the Community with a non-Member State or an international organization under which the material is transferred;
 - the date on which the contract was concluded or considered as concluded by the Supply Agency and any useful references;
 - for jobbing contracts (Article 75 of the Treaty) and for contracts for the supply of small quantities of material (Article 74 of the Treaty and Commission Regulation No 17/66/Euratom, as amended by Regulation (Euratom) No 3137/74), date of notification to the Supply Agency and any useful references.

NB: Pursuant to Article 79 of the Treaty, those subject to safeguard requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to that Article.

This form, duly completed and signed, must be forwarded to the Commission of the European Communities, Euratom Safeguards Directorate, 'Jean Monnet' Building, Kirchberg, Luxembourg (Grand Duchy of Luxembourg).

EXPLANATORY NOTES

- (1) The declaration of shipments is to be made at the latest at the end of January of each year for the previous year, separately for each consignee. The declaration of export is to be made for each export at the date of shipment.
- (2) Name and address of the reporting undertaking.
- (3) Name of the mine in respect of which the declaration is made.
- (4) Code of the mine as notified to the undertaking by the Commission

NB: Pursuant to Article 79 of the Treaty, those subject to safeguard requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to that Article.

This form, duly completed and signed, must be forwarded to the Commission of the European Communities, Euratom Safeguards Directorate, 'Jean Monnet' Building, Kirch-Luxembourg (Grand Duchy of Luxembourg).

ANNEX VIII

COMMISSION OF THE EUROPEAN COMMUNITIES
EURATOM SAFEGUARDS

REQUEST FOR EXEMPTION FROM DECLARATION OF NUCLEAR MATERIAL

- (1) Date:
- (2) Installation: (3) Material balance area
code:
- (4) Quantities:
- (5) Category of nuclear material:
- (6) Chemical composition:
- (7) Enrichment or isotopic composition:
- (8) Physical form:
- (9) Number of items:
- (10) Location where material is now present:
- (11) Reason: (a) sensing components
(b) Pu with Pu-238 > 80 %
(c) non-nuclear activities
- (12) Intended use:
- (13) Particular obligation:
- (14) Approximate date of transfer:
Date and place of dispatch of request:
Name and position of responsible signatory:

Signature:

Exemption granted as above

Date:

Name and position of responsible signatory granting the exemption:

Signature:

(For the Commission)

EXPLANATORY NOTES

- (1) Date on which the exemption is requested.
- (2) Name, address and country of the installation requesting the exemption.
- (3) Code of the requesting material balance area notified to the installation in the particular safeguard provisions.
- (4) Total weight of the elements in kilogrammes for natural and depleted uranium and thorium, and in grammes for enriched uranium and plutonium. Weight of fissile isotopes, if applicable.
- (5) Categories of nuclear materials as laid down in Annex II (11).
- (6) Chemical composition shall be identified.
- (7) Degree of enrichment or isotopic composition, if applicable.
- (8) Description of materials as laid down in Annex II (10).
- (9) Number of items constituting the materials.
- (10) Location within the material balance area where the nuclear material is now stored.
- (11) Delete the reasons which do not apply.
- (12) Indication of the intended use to which the nuclear material requested for exemption is assigned.
- (13) Indication of particular safeguard obligation to which the nuclear material is subject, if applicable. Use the codification as laid down in Annex II (17) to this Regulation.
- (14) The approximate date of transfer out of the material balance area (for sensing components) or transfer to non-nuclear use shall be given, if applicable.

NB: Pursuant to Article 79 of the Treaty, those subject to safeguard requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to that Article.

This form, duly completed and signed, must be forwarded to the Commission of the European Communities, Euratom Safeguards Directorate, 'Jean Monnet' Building, Kirchberg, Luxembourg (Grand Duchy of Luxembourg).

ANNEX IX

COMMISSION OF THE EUROPEAN COMMUNITIES
EURATOM SAFEGUARDS

DE-EXEMPTION OF NUCLEAR MATERIAL PREVIOUSLY EXEMPTED FROM
DECLARATION

- (1) Date:
- (2) Installation: (3) Material balance area
Code:
- (4) Quantities:
- (5) Category of nuclear materials:
- (6) Chemical composition:
- (7) Enrichment or isotopic composition:
- (8) Physical form:
- (9) Number of items:
- (10) Location where material is now present:
- (11) Date of de-exemption:
- (12) Exemption granted on:
- (13) Intended use:
- Date and place of dispatch of communication:
- Name and position of responsible signatory:
- Signature:

EXPLANATORY NOTES

- (1) Date on which the de-exemption is communicated.
- (2) Name, address and country of the installation communicating the de-exemption.
- (3) Code of the communicating material balance area notified to the installation concerned in the particular safeguard provisions.
- (4) Total weight of the elements in kilogrammes for natural and depleted uranium and thorium, and in grammes for enriched uranium and plutonium. Weight of the fissile isotopes, if applicable.
- (5) Categories of nuclear materials as laid down in Annex II (11).
- (6) Chemical composition shall be identified.
- (7) Degree of enrichment or isotopic composition, if applicable.
- (8) Description of materials as laid down in Annex II (10).
- (9) The number of items constituting the materials.
- (10) Location within the material balance area where the nuclear material is now stored.
- (11) Date from which de-exemption shall be applied.
- (12) Date on which exemption from declarations in respect of the nuclear material in question had been granted.
- (13) Indication of the use to which the nuclear material is assigned.

NB: Pursuant to Article 79 of the Treaty, those subject to safeguard requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to that Article.

This form, duly completed and signed, must be forwarded to the Commission of the European Communities, Euratom Safeguards Directorate, 'Jean Monnet' Building, Kirchberg, Luxembourg (Grand Duchy of Luxembourg).

ANNEX X

COMMISSION OF THE EUROPEAN COMMUNITIES
EURATOM SAFEGUARDSGUIDELINES FOR THE COMMUNICATION OF THE OUTLINE PROGRAMME
OF ACTIVITIES WITH REFERENCE TO ARTICLE 6 OF THIS REGULATION

Communications should, if possible, cover the succeeding two years.

In particular, communications should indicate:

- types of operations, e.g. proposed campaigns with indication of type and quantity of fuel elements to be fabricated or reprocessed, enrichment programmes, reactor operating programmes, with planned shutdowns;
- expected schedule of arrival of materials, stating the amount of material per batch, the form (UF₆, UO₂, fresh or irradiated fuels, etc.), expected type of container or packaging;
- dates by which quantity of material in products is expected to be determined and dates of dispatch;
- dates and duration of physical inventory taking.

NB: Pursuant to Article 79 of the Treaty, those subject to safeguard requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to that Article.

This communication, duly completed and signed, must be forwarded to the Commission of the European Communities, Euratom Safeguards Directorate, 'Jean Monnet' Building, Kirchberg, Luxembourg (Grand Duchy of Luxembourg).

I. 2. C. 4

COUNCIL REGULATION (EC) No 3295/94
of 22 December 1994

laying down measures to prohibit the release for free circulation, export, re-export or entry for a suspensive procedure of counterfeit and pirated goods

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Council Regulation (EEC) No 3842/86 of 1 December 1986 laying down measures to prohibit the release for free circulation of counterfeit goods ⁽⁴⁾ has been in force since 1 January 1988; whereas conclusions should be drawn from the experience gained during the early years of its implementation with a view to improving the operation of the system it set up;

Whereas the marketing of counterfeit goods and pirated goods causes considerable injury to law-abiding manufacturers and traders and to holders of the copyright or neighbouring rights and misleads consumers; whereas such goods should as far as possible be prevented from being placed on the market and measures should be adopted to that end to deal effectively with this unlawful activity without impeding to freedom of legitimate trade; whereas this objective is also being pursued through efforts being made along the same lines at international level;

Whereas, in so far as counterfeit or pirated goods and similar products are imported from third countries, it is important to prohibit their release for free circulation in the Community or their entry for a suspensive procedure and to set up an appropriate procedure enabling the customs authorities to act to ensure that such a prohibition can be properly enforced;

Whereas action by the customs authorities to prohibit the release for free circulation of counterfeit or pirated goods

or their entry for a suspensive procedure should also apply to the export or re-export of such goods from the Community;

Whereas, as regards suspensive procedures and re-export subject to notification, action by the customs authorities will take place only where suspected counterfeit or pirated goods are discovered during a check;

Whereas the Community takes into account the terms of the GATT agreement on trade-related intellectual property issues, including a trade in counterfeit goods, in particular the measures to be taken at the frontier;

Whereas provision should be made that the customs authorities are empowered to take decisions on applications for action to be taken that are submitted to them;

Whereas action by the customs authorities should consist either in suspending the release for free circulation, export or re-export of goods suspected of being counterfeit or pirated or in detaining such goods when they are entered for a suspensive procedure or re-exported subject to notification for as long as is necessary to enable it to be determined whether the goods are actually counterfeit or pirated;

Whereas it is appropriate to authorize the Member States to detain the goods in question for a certain period even before an application by the right holder has been lodged or approved in order to allow him to lodge an application for action by the customs authorities;

Whereas the competent authority should decide cases submitted to it by reference to the criteria which are used to determine whether goods produced in the Member State concerned infringe intellectual property rights; whereas Member States' provisions on the competence of the judicial authorities and procedures are not affected by this Regulation;

Whereas it is necessary to determine the measures to be applied to the goods in question where it is established that they are counterfeit or pirated; whereas those measures should not only deprive those responsible for trading in such goods of the economic benefits of the transaction and penalize them but also constitute an effective deterrent to further transactions of the same kind;

⁽¹⁾ OJ No C 238, 2. 9. 1993, p. 9.

⁽²⁾ OJ No C 61, 28. 2. 1994.

⁽³⁾ OJ No C 32, 19. 2. 1994, p. 37.

⁽⁴⁾ OJ No L 357, 18. 12. 1986, p. 1.

Whereas in order to avoid serious disruption to the clearing of goods contained in travellers' personal luggage, it is necessary to exclude from the scope of this Regulation goods which may be counterfeit or pirated which are imported from third countries within the limits laid down by Community rules in respect of relief from customs duty;

Whereas uniform application of the common rules laid down by this Regulation must be ensured and to that end a Community procedure must be established enabling measures implementing these rules to be adopted within appropriate periods and mutual assistance between the Member States, of the one part, and between the Member States and the Commission, of the other part, to be strengthened so as to ensure greater effectiveness;

Whereas it will be appropriate to consider the possibility of increasing the number of intellectual property rights covered by this Regulation in the light, *inter alia*, of the experience gained in its implementation;

Whereas Regulation (EEC) No 3842/86 should therefore be repealed,

HAS ADOPTED THIS REGULATION :

CHAPTER I

General

Article 1

1. This Regulation shall lay down:

(a) the conditions under which the customs authorities shall take action where goods suspected of being counterfeit or pirated are:

- entered for free circulation, export or re-export,
- found when checks are made on goods placed under a suspensive procedure within the meaning of Article 84 (1) (a) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽¹⁾, or re-exported subject to notification; and

(b) the measures which shall be taken by the competent authorities with regard to those goods where it has been established that they are indeed counterfeit or pirated.

(1) OJ No L 302, 19.10.1992, p. 1.

2. For the purposes of this Regulation:

(a) 'counterfeit goods' means:

— goods, including the packaging thereof, being without authorization a trade mark which is identical to the trade mark validly registered in respect of the same type of goods, or which cannot be distinguished in its essential aspects from such trade mark, and which thereby infringes the rights of the holder of the trade mark in question under Community law or the law of the Member State in which the application for action by the customs authorities is made,

— any trade mark symbol (logo, label, sticker, brochure, instructions for use or guarantee document) whether presented separately or not, in the same circumstances as the goods referred to in the first indent,

— packaging materials bearing the trade marks of counterfeit goods, presented separately in the same circumstances as the goods referred to in the first indent;

(b) 'pirated goods' means goods which are or embody copies made without the consent of the holder of the copyright or neighbouring rights, or of the holder of a design right, whether registered under national law or not, or of a person duly authorized by the holder in the country of production, where the making of those copies infringes the right in question under Community law or the law of the Member State in which the application for action by the customs authorities is made;

(c) 'holder of a right' means the holder of a trade mark, as referred to in (a), and/or one of the rights referred to in (b), or any other person authorized to use the trade mark and/or rights, or their representative;

(d) 'declaration for release for free circulation, for export or for re-export' means declarations made in accordance with Article 61 of Regulation (EEC) No 2913/92.

3. Any mould or matrix which is specifically designed or adapted for the manufacture of a counterfeit trade mark or of goods bearing such a trade mark or of pirated goods shall be treated as 'counterfeit or pirated goods', as appropriate, provided that the use of such moulds or matrices infringes the rights of the holder of a right under Community law or the law of the Member State in which the application for action by the customs authorities is made.

4. This Regulation shall not apply to goods which bear a trade mark with the consent of the holder of that trade mark or which are protected by a copyright or neighbouring right or a design right and which have been

manufactured with the consent of the holder of the right but are placed in one of the situations referred to in paragraph 1 (a) without the latter's consent.

Nor shall it apply to goods referred to in the first subparagraph which have been manufactured or bear a trade mark under conditions other than those agreed with the holders of the rights in question.

CHAPTER II

Prohibition of the release for free circulation, export, re-export or of the placing under a suspensive procedure of counterfeit goods and pirated goods

Article 2

The release for free circulation, export, re-export or placing under a suspensive procedure of goods founds to be counterfeit or pirated on completion of the procedure provided for in Article 6 shall be prohibited.

CHAPTER III

Application for action by the customs authorities

Article 3

1. In each Member State, the holder of a right may lodge an application in writing with the competent service of the customs authority for action by the customs authorities where the goods are placed in one of the situations referred to in Article 1 (1) (a).

2. The application referred to in paragraph 1 shall include:

- a sufficiently detailed description of the goods to enable the customs authorities to recognize them,
- proof that the applicant is the holder of the right for the goods in question.

The holder of the right must also provide all other pertinent information available to him to enable the competent customs service to take a decision in full knowledge of the facts without, however, that information being a condition of admissibility of the application.

By way of indication, in the case of pirated goods, that information shall, wherever possible, include:

- the place where the goods are situated or the intended destination,
- particulars identifying the consignment or packages,
- the scheduled date of arrival or departure of the goods,
- the means of transport used,
- the identity of the importer, exporter or holder.

3. The application must specify the length of the period during which the customs authorities are requested to take action.

4. The applicant may be charged a fee to cover the administrative costs incurred in dealing with the application. The fee shall not be disproportionate to the service provided.

5. The competent customs service with which an application drawn up pursuant to paragraph 2 has been lodged shall deal with the application and shall forthwith notify the applicant in writing of its decision.

Where that service grants the application, the service shall specify the period during which the customs authorities shall take action. That period may, upon application by the holder of the right, be extended by the service which took the initial decision.

Any refusal to grant an application shall give the reasons for refusal and may form the subject of an appeal.

6. Member States may require the holder of a right, where his application has been granted, or where action as referred to in Article 1 (1) (a) has been taken pursuant to Article 6 (1), to provide a security:

- to cover any liability on his part *vis-à-vis* the persons involved in one of the operations referred to in Article 1 (1) (a) where the procedure initiated pursuant to Article 6 (1) is discontinued owing to an act or omission by the holder of the right or where the goods in question are subsequently found not be counterfeit or pirated,
- to ensure payment of the costs incurred in accordance with this Regulation, in keeping the goods under customs control pursuant to Article 6.

7. The holder of the right shall be obliged to inform the service referred to in paragraph 1 should the right cease to be validly registered or should it expire.

8. Each Member State shall designate the service within the customs authority competent to receive and deal with the applications referred to in this Article.

Article 4

Where, in the course of checks made under one of the customs procedures referred to in Article 1 (1) (a) and before an application by the holder of the right has been lodged or approved, it appears evident to the customs office that goods are counterfeit or pirated, the customs authority may, in accordance with the rules in force in the Member States concerned, notify the holder of the right, where known, of a possible infringement thereof. The customs authority shall be authorized to suspend release of the goods or detain them for a period of three working days to enable the holder of the right to lodge an application for action in accordance with Article 3.

Article 5

The decision granting the application by the holder of the right shall be forwarded immediately to the customs offices of the Member State which are liable to be concerned with the goods alleged in the application to be counterfeit or pirated.

CHAPTER IV

Conditions governing action by the customs authorities and by the authority competent to take a substantive decision*Article 6*

1. Where a customs office to which the decision granting an application by the holder of a right has been forwarded pursuant to Article 5 is satisfied, after consulting the applicant where necessary, that goods placed in one of the situations referred to in Article 1 (1) (a) correspond to the description of the counterfeit or pirated goods contained in that decision, it shall suspend release of the goods or detain them.

The customs office shall immediately inform the service which dealt with the application in accordance with Article 3. That service or the customs office, shall forthwith inform the declarant and the person who applied for action to be taken. In accordance with national provisions on the protection of personal data, commercial and industrial secrecy and professional and administrative confidentiality, the customs office or the service which dealt with the application shall notify the holder of the right, at his request, of the name and address of the declarant and, if known, of those of the consignee so as to enable the holder of the right to ask the competent authorities to take a substantive decision. The customs office shall

afford the applicant and the persons involved in any of the operations referred to in Article 1 (1) (a) the opportunity to inspect the goods whose release has been suspended or which have been detained.

When examining the goods the customs office may take samples in order to expedite the procedure.

2. The law in force in the Member State within the territory of which the goods are placed in one of the situations referred to in Article 1 (1) (a) shall apply as regards :

- (a) referral to the authority competent to take a substantive decision and immediate notification of the customs service or office referred to in paragraph 1 of that referral, unless referral is effected by that service or office ;
- (b) reaching the decision to be taken by that authority. In the absence of Community rules in this regard, the criteria to be used in reaching that decision shall be the same as those used to determine whether goods produced in the Member State concerned infringe the rights of the holder. Reasons shall be given for decisions adopted by the competent authority.

Article 7

1. If, within 10 working days of notification of suspension of release or of detention, the customs office referred to in Article 6 (1) has not been informed that the matter has been referred to the authority competent to take a substantive decision on the case in accordance with Article 6 (2) or that the duly empowered authority has adopted interim measures, the goods shall be released, provided that all the customs formalities have been complied with and the detention order has been revoked.

This period may be extended by a maximum of 10 working days in appropriate cases.

2. In the case of goods suspected of infringing design rights, the owner, the importer or the consignee of the goods shall be able to have the goods in question released or their detention revoked against provision of a security, provided that :

- the customs service or office referred to in Article 6 (1) has been informed, within the time limit referred to in paragraph 1, that the matter has been referred to the authority competent to take a substantive decision referred to in said paragraph 1,
- on expiry of the time limit, the authority empowered for this purpose has not imposed interim measures, and
- all the customs formalities have been completed.

The security must be sufficient to protect the interests of the holder of the right. Payment of the security shall be without prejudice to the other remedies open to the holder of the right. Where the matter has been referred to the authority competent to take a substantive decision other than on the initiative of the holder of the right, the security shall be released if that person does not exercise his right to institute legal proceedings within 20 working days of the date on which he is notified of the suspension of release or detention. Where the second subparagraph of paragraph 1 applies, this period may be extended to a maximum of 30 working days.

3. The conditions governing storage of the goods during the period of suspension of release or detention shall be determined by each Member State.

CHAPTER V

Provisions applicable to goods found to be counterfeit or pirated goods

Article 8

1. Without prejudice to the other rights of action open to the holder of a trade mark which is found to have been counterfeited or the holder of a copyright or neighbouring right or of a design right which is found to have been pirated, Member States shall adopt the measures necessary to allow the competent authorities:

- (a) as a general rule, and in accordance with the relevant provisions of national law, to destroy goods found to be counterfeit or pirated, or dispose of them outside commercial channels in such a way as to preclude injury to the holder of the right, without compensation of any sort and at no cost to the exchequer;
- (b) to take, in respect of such goods, any other measures which effectively deprive the persons concerned of the economic benefits of the transaction.

The following in particular shall not be regarded as having such effect:

- re-exporting the counterfeit or pirated goods in the unaltered state,
- other than in exceptional cases, simply removing the trade marks which have been affixed to the counterfeit goods without authorization,
- placing the goods under a different customs procedure.

2. The counterfeit or pirated goods may be handed over to the exchequer. In that event, paragraph 1 (a) shall apply.

3. In addition to the information given pursuant to the second subparagraph of Article 6 (1) and under the conditions laid down therein, the customs office or the competent service shall inform the holder of the right, upon request, of the names and addresses of the consignor, of the importer or exporter and of the manufacturer of the goods found to be counterfeit or pirated and of the quantity of the goods in question.

CHAPTER VI

Final provisions

Article 9

1. Save as provided by the law of the Member State in which the application is made, the acceptance of an application drawn up in accordance with Article 3 (2) shall not entitle the holder of a right to compensation where counterfeit or pirated goods are not detected by a customs office and are released or no action is taken to detain them in accordance with Article 6 (1).

2. Save as provided by the law of the Member State in which the application is made, exercise by a customs office or by another duly empowered authority of the powers conferred on them in regard to combating counterfeit or pirated goods shall not render them liable to the persons involved in the operations referred to in Article 1 (1) (a) or Article 4, in the event of their suffering loss or damage as a result of their action.

3. The civil liability of the holder of a right shall be governed by the law of the Member State in which the goods in question were placed in one of the situations referred to in Article 1 (1) (a).

Article 10

This Regulation shall not apply to goods of a non-commercial nature contained in travellers' personal luggage within the limits laid down in respect of relief from customs duty.

Article 11

Moreover, each Member State shall introduce penalties to apply in the event of infringements of Article 2. Such penalties must be sufficiently severe to encourage compliance with the relevant provisions.

Article 12

The provisions necessary for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 13 (3) and (4).

Article 13

1. The Commission shall be assisted by the Committee set up under Article 247 of Regulation (EEC) No 2913/92.

2. The Committee shall examine any matter concerning implementation of this Regulation which its chairman may raise, either on his own initiative or at the request of the representative of a Member State.

3. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the measures to be taken. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

4. The Commission shall adopt measures which shall apply immediately. However, if the measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In the event:

- the Commission shall defer application of the measures which it has decided for not more than three months from the date of their communication,
- the Council, acting by a qualified majority, may take a different decision within the time limit provided for in the first indent.

Article 14

Member States shall communicate all relevant information on the application of this Regulation to the Commission.

The Commission shall communicate that information to the other Member States.

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

Done at Brussels, 22 December 1994.

For the Council

The President

H. SEEHOFER

For the purpose of the application of this Regulation, the provisions of Regulation (EEC) No 1468/81 of 19 May 1981 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs or agricultural matters⁽¹⁾ shall apply *mutatis mutandis*.

The details of the information procedure shall be drawn up in the framework of the implementing provisions in accordance with Article 13 (2), (3) and (4).

Article 15

Within two years of the entry into force of this Regulation, the Commission shall, on the basis of the information referred to in Article 14, report to the European Parliament and the Council on the operation of the system particularly with regard to the economic and social consequences of counterfeiting and shall propose any amendments or additions required, within a period of two years from the implementation of this Regulation.

Article 16

Regulation (EEC) No 3842/86 shall be repealed as from the date of implementation of this Regulation.

Article 17

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

It shall apply from 1 July 1995.

⁽¹⁾ OJ No L 144, 2. 6. 1981, p. 1. Regulation as last amended by Regulation (EEC) No 945/87 (OJ No L 90, 2. 4. 1987, p. 3).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 13 November 1989

coordinating regulations on insider dealing

(89/592/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 100a (1) of the Treaty states that the Council shall adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market ;

Whereas the secondary market in transferable securities plays an important role in the financing of economic agents ;

Whereas, for that market to be able to play its role effectively, every measure should be taken to ensure that market operates smoothly ;

Whereas the smooth operation of that market depends to a large extent on the confidence it inspires in investors ;

Whereas the factors on which such confidence depends include the assurance afforded to investors that they are placed on an equal footing and that they will be protected against the improper use of inside information ;

Whereas, by benefiting certain investors as compared with others, insider dealing is likely to undermine that

confidence and may therefore prejudice the smooth operation of the market ;

Whereas the necessary measures should therefore be taken to combat insider dealing ;

Whereas in some Member States there are no rules or regulations prohibiting insider dealing and whereas the rules or regulations that do exist differ considerably from one Member State to another ;

Whereas it is therefore advisable to adopt coordinated rules at a Community level in this field ;

Whereas such coordinated rules also have the advantage of making it possible, through cooperation by the competent authorities, to combat transfrontier insider dealing more effectively ;

Whereas, since the acquisition or disposal of transferable securities necessarily involves a prior decision to acquire or to dispose taken by the person who undertakes one or other of these operations, the carrying-out of this acquisition or disposal does not constitute in itself the use of inside information ;

Whereas insider dealing involves taking advantage of inside information ; whereas the mere fact that market-makers, bodies authorized to act as *contrepartie*, or stockbrokers with inside information confine themselves, in the first two cases, to pursuing their normal business of buying or selling securities or, in the last, to carrying out an order should not in itself be deemed to constitute use of such inside information ; whereas likewise the fact of carrying out transactions with the aim of stabilizing the price of new issues or secondary offers of transferable securities should not in itself be deemed to constitute use of inside information ;

⁽¹⁾ OJ No C 153, 11. 6. 1987, p. 8 and OJ No C 277, 27. 10. 1988, p. 13.

⁽²⁾ OJ No C 187, 18. 7. 1987, p. 93 and Decision of 11 October 1989 (not yet published in the Official Journal).

⁽³⁾ OJ No C 35, 8. 2. 1989, p. 22.

Whereas estimates developed from publicly available data cannot be regarded as inside information and whereas, therefore, any transaction carried out on the basis of such estimates does not constitute insider dealing within the meaning of this Directive ;

Whereas communication of inside information to an authority, in order to enable it to ensure that the provisions of this Directive or other provisions in force are respected, obviously cannot be covered by the prohibitions laid down by this Directive,

HAS ADOPTED THIS DIRECTIVE :

Article 1

For the purposes of this Directive :

1. 'inside information' shall mean information which has not been made public of a precise nature relating to one or several issuers of transferable securities or to one or several transferable securities, which, if it were made public, would be likely to have a significant effect on the price of the transferable security or securities in question ;

2. 'transferable securities' shall mean :

- (a) shares and debt securities, as well as securities equivalent to shares and debt securities ;
- (b) contracts or rights to subscribe for, acquire or dispose of securities referred to in (a) ;
- (c) futures contracts, options and financial futures in respect of securities referred to in (a) ;
- (d) index contracts in respect of securities referred to in (a),

when admitted to trading on a market which is regulated and supervised by authorities recognized by public bodies, operates regularly and is accessible directly or indirectly to the public.

Article 2

1. Each Member State shall prohibit any person who :

- by virtue of his membership of the administrative, management or supervisory bodies of the issuer,
- by virtue of his holding in the capital of the issuer, or
- because he has access to such information by virtue of the exercise of his employment, profession or duties,

possesses inside information from taking advantage of that information with full knowledge of the facts by acquiring or disposing of for his own account or for the account of a third party, either directly or indirectly, transferable securities of the issuer or issuers to which that information relates.

2. Where the person referred to in paragraph 1 is a company or other type of legal person, the prohibition laid down in that paragraph shall apply to the natural

persons who take part in the decision to carry out the transaction for the account of the legal person concerned.

3. The prohibition laid down in paragraph 1 shall apply to any acquisition or disposal of transferable securities effected through a professional intermediary.

Each Member State may provide that this prohibition shall not apply to acquisitions or disposals of transferable securities effected without the involvement of a professional intermediary outside a market as defined in Article 1 (2) *in fine*.

4. This Directive shall not apply to transactions carried out in pursuit of monetary, exchange-rate or public debt-management policies by a sovereign State, by its central bank or any other body designated to that effect by the State, or by any person acting on their behalf. Member States may extend this exemption to their federated States or similar local authorities in respect of the management of their public debt.

Article 3

Each Member State shall prohibit any person subject to the prohibition laid down in Article 2 who possesses inside information from :

- (a) disclosing that inside information to any third party unless such disclosure is made in the normal course of the exercise of his employment, profession or duties ;
- (b) recommending or procuring a third party, on the basis of that inside information, to acquire or dispose of transferable securities admitted to trading on its securities markets as referred to in Article 1 (2) *in fine*.

Article 4

Each Member State shall also impose the prohibition provided for in Article 2 on any person other than those referred to in that Article who with full knowledge of the facts possesses inside information, the direct or indirect source of which could not be other than a person referred to in Article 2.

Article 5

Each Member State shall apply the prohibitions provided for in Articles 2, 3 and 4, at least to actions undertaken within its territory to the extent that the transferable securities concerned are admitted to trading on a market of a Member State. In any event, each Member State shall regard a transaction as carried out within its territory if it is carried out on a market, as defined in Article 1 (2) *in fine*, situated or operating within that territory.

Article 6

Each Member State may adopt provisions more stringent than those laid down by this Directive or additional provisions, provided that such provisions are applied generally. In particular it may extend the scope of the prohibition laid down in Article 2 and impose on persons referred to in Article 4 the prohibitions laid down in Article 3.

Article 7

The provisions of Schedule C.5 (a) of the Annex to Directive 79/279/EEC⁽¹⁾ shall also apply to companies and undertakings the transferable securities of which, whatever their nature, are admitted to trading on a market as referred to in Article 1 (2) *in fine* of this Directive.

Article 8

1. Each Member State shall designate the administrative authority or authorities competent, if necessary in collaboration with other authorities to ensure that the provisions adopted pursuant to this Directive are applied. It shall so inform the Commission which shall transmit that information to all Member States.

2. The competent authorities must be given all supervisory and investigatory powers that are necessary for the exercise of their functions, where appropriate in collaboration with other authorities.

Article 9

Each Member State shall provide that all persons employed or formerly employed by the competent authorities referred to in Article 8 shall be bound by professional secrecy. Information covered by professional secrecy may not be divulged to any person or authority except by virtue of provisions laid down by law.

Article 10

1. The competent authorities in the Member States shall cooperate with each other whenever necessary for the purpose of carrying out their duties, making use of the powers mentioned in Article 8 (2). To this end, and notwithstanding Article 9, they shall exchange any information required for that purpose, including information relating to actions prohibited, under the options given to Member States by Article 5 and by the second sentence of Article 6, only by the Member State requesting cooperation. Information thus exchanged shall be covered by the obligation of professional secrecy to which the persons employed or formerly employed by the competent authorities receiving the information are subject.

2. The competent authorities may refuse to act on a request for information:

- (a) where communication of the information might adversely affect the sovereignty, security or public policy of the State addressed;
- (b) where judicial proceedings have already been initiated in respect of the same actions and against the same persons before the authorities of the State addressed or where final judgment has already been passed on such

persons for the same actions by the competent authorities of the State addressed.

3. Without prejudice to the obligations to which they are subject in judicial proceedings under criminal law, the authorities which receive information pursuant to paragraph 1 may use it only for the exercise of their functions within the meaning of Article 8 (1) and in the context of administrative or judicial proceedings specifically relating to the exercise of those functions. However, where the competent authority communicating information consents thereto, the authority receiving the information may use it for other purposes or forward it to other States' competent authorities.

Article 11

The Community may, in conformity with the Treaty, conclude agreements with non-member countries on the matters governed by this Directive.

Article 12

The Contact Committee set up by Article 20 of Directive 79/279/EEC shall also have as its function:

- (a) to permit regular consultation on any practical problems which arise from the application of this Directive and on which exchanges of view are deemed useful;
- (b) to advise the Commission, if necessary, on any additions or amendments to be made to this Directive.

Article 13

Each Member State shall determine the penalties to be applied for infringement of the measures taken pursuant to this Directive. The penalties shall be sufficient to promote compliance with those measures.

Article 14

1. Member States shall take the measures necessary to comply with this Directive before 1 June 1992. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the provisions of national law which they adopt in the field governed by this Directive.

Article 15

This Directive is addressed to the Member States.

Done at Brussels, 13 November 1989.

For the Council
The President
 P. BÉRÉGOVOY

⁽¹⁾ OJ No L 66, 16. 3. 1979, p. 21.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 20 June 1991

on the adoption of a programme of Community action on the subject of the vocational training of customs officials (Matthaeus programme)

(91/341/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the establishment of the internal market necessitates a new definition of the role of Community customs officials in ensuring the proper functioning of the Customs Union;

Whereas this role will, in future, focus on the uniform application of customs legislation at the Community's external borders, which is a prerequisite for the execution of the various Community policies governing foreign trade;

Whereas it must be ensured that the abolition of internal borders does not give rise to distortions in competition, deflection of trade or increased risk of fraud; whereas it is

consequently necessary to stimulate intensive and ongoing cooperation at all administrative levels in the customs services with a view to preparing them for working together within the framework of the internal market;

Whereas what is involved is an improvement in the effectiveness of the Customs Union as provided for in Article 9 of the Treaty;

Whereas this improvement will be achieved through optimizing the use of human resources in the Member States and therefore through suitable vocational training;

Whereas the measures taken in this sphere by each of the national administrations are not sufficient to achieve the objective pursued; whereas it is consequently essential to reinforce national efforts through joint action to increase the awareness of customs officials of the increasingly Community dimension of their task and of the need to work together closely;

Whereas a greater awareness of the principles and procedures to be applied in Member States can only increase the degree of harmonization of customs practice within the Community and help to create the necessary climate of mutual confidence;

Whereas the implementation of a large-scale programme of training for customs officials (Matthaeus programme) constitutes one of the most appropriate ways to achieve this result;

⁽¹⁾ OJ No C 13, 19. 1. 1991, p. 12.

⁽²⁾ OJ No C 106, 22. 4. 1991, p. 90 and Decision of June 1991 (not yet published in the Official Journal).

⁽³⁾ OJ No C 102, 18. 4. 1991, p. 5.

Whereas the Commission adopted a training programme for 1990 based on the exchange of customs officials between national administrations (pilot project); whereas the aim of this programme was to collect useful material to allow the implementation of a more ambitious training programme extending over several years and supplemented by other training measures;

Whereas the experience acquired during the pilot project showed the need for officials to be operational in their workplace; whereas this requirement will be met only if the exchange officials have sufficient knowledge of the language of the host country; whereas, for this purpose, it is essential that the national administrations organize intensive language courses for their officials who are likely to participate in the Matthaëus programme; whereas these courses must be of an ongoing nature and cover all the official Community languages;

Whereas courses in the less widely-spoken Community languages may be organized in the Member State concerned by the Commission with the assistance of the customs administration of that Member State;

Whereas, equally, the essential requirement of making customs officials operational in the host services can be achieved only if exchange officials are able to perform the formalities involved in the duties entrusted to them; whereas this condition should be subject to certain restrictions in order to take account of the specific requirements of the legal system of each Member State; whereas it should, consequently, be ensured that exchange officials have the same legal status as national officials where, in performing their duties, their civil liability is put at issue by a third party; whereas in these circumstances it appears necessary for exchange officials to be bound by the same rules of professional secrecy as national officials;

Whereas the number of officials undergoing an exchange must, as far as possible, be increased each year on the basis of the number of places available;

Whereas training measures supplementary to the exchange of customs officials between administrations are essential to the achievement of the objective sought; whereas these measures may involve training seminars and the implementation of common training programmes to be taught in Member States' customs schools; whereas consideration must also be given to the creation of a joint training centre for customs officials of the Community;

Whereas seminars form an ideal forum for the exchange of ideas between Community customs officials; whereas, in these seminars, suggestions may emerge which could

improve the legal instruments in force and harmonize work methods in each administration;

Whereas the said seminars should concern those customs officials who belong, as far as may be required, to all categories and especially trainers in customs schools, officials responsible for implementing Community law and officials responsible for combating all types of fraud;

Whereas the establishment of common training programmes constitutes a suitable means of providing officials with identical training throughout the Community; whereas these programmes should focus on the teaching of Community law as well as on the study of Community institutions and their foundations, since customs officials will increasingly have to integrate the Community and national aspects of their work;

Whereas the implementation of these common programmes can be accomplished only if Member States provide the necessary facilities on their territories;

Whereas, for the implementation of the Matthaëus programme, the sharing of expenses under the programme between the Commission and the Member States should be determined; whereas, consequently, expenses could be shared by assigning those relating to the language training of their officials to the Member States and the travel and subsistence expenses of officials participating in the exchanges and of officials required to attend seminars in Member States other than their own to the Commission;

Whereas it is necessary to ensure the uniform application of this Decision and, for that purpose, to provide for a Community procedure for the enactment of implementing rules; whereas a committee should be set up to provide a forum for close and effective cooperation between the Member States and the Commission in this field;

Whereas this programme covers certain aspects which, to date, have not been included within the customary framework of collaboration and administrative assistance; whereas these aspects of the programme may contribute, in close liaison with the vocational training objectives, to the harmonious development of economic activities throughout the Community,

HAS ADOPTED THIS DECISION:

Article 1

This Decision establishes the Community action programme for the vocational training of customs officials of national administrations (the Matthaëus programme).

Article 2

For the purposes of this Decision :

- (a) 'exchange official' shall mean an official of a Member State required to perform the duties entrusted to him in a customs service situated in another Member State ;
- (b) 'host service' shall mean the customs service in which the exchange official is required to perform his duties ;
- (c) 'donor service' shall mean the customs service in which the exchange official normally performs his duties.

Article 3

The objectives of the Matthaues programme shall be :

- (a) to prepare customs officials of Member States for the implications of the internal market with a view to the uniform application of Community regulations at the external borders of the Community ;
- (b) to increase awareness in the customs services that, in the internal market, they will be required to work increasingly on behalf of the Community as a whole ;
- (c) to provide supplementary, adapted vocational training to the greatest possible number of customs officials ;
- (d) to utilize to maximum advantage the know-how of customs services in the Community through greater mobility of staff and thus to improve the management of the Customs Union and the application of the fiscal provisions relating to imports and exports ;
- (e) to stimulate intensive and ongoing cooperation at all levels of the relevant administrations with a view to preparing them for working together within the context of the internal market.

Article 4

The Matthaues programme shall comprise the following training measures :

- (a) exchanges of customs officials between national administrations, in accordance with Article 5 and Annex I ;
- (b) training seminars for customs officials, especially trainers in customs schools, officials responsible for implementing Community law and officials responsible for combating all types of fraud ; details of the way in which these seminars are to be conducted are given in Annex II ;
- (c) the implementation in Member States' customs schools of common vocational training programmes, in accordance with Annex III ;

- (d) the organization of language training courses in the Member States for exchange officials, in accordance with Article 6.

Article 5

- 1. Member States shall take the necessary steps to enable exchange officials to be operational in the host service.

To this end, exchange officials shall be authorized to carry out the formalities relating to the duties entrusted to them.

- 2. If circumstances so require, and, in particular, in order to take account of the specific requirements of the legal system of each Member State, the competent authorities in the Member States may limit the authorization referred to in the second subparagraph of paragraph 1.

- 3. During the period of the exchange, the civil liability of the exchange official during the performance of his duties shall be assimilated to that of the national officials in the host service.

- 4. Exchange officials shall be bound by the same rules of professional secrecy as national officials.

Article 6

- 1. Member States shall establish language training for their officials who are likely to participate in the exchanges referred to in Article 4 (a).

This training must be of an intensive and ongoing nature. It must cover all official Community languages.

- 2. Acting on its own initiative or at the request of Member States, the Commission may organize language training in the less widely-spoken official languages of the Community in the Member States in which they are used.

Article 7

- 1. The expenses arising from the measures taken in Article 4 shall be shared between the Commission and the Member States as provided for in paragraphs 2 and 3.

- 2. The Commission shall pay the travel and subsistence expenses for exchanges of customs officials between national administrations as provided for in Article 4 (a).

The Commission shall also pay the travel and subsistence expenses of officials participating in the seminars referred to in Article 4 (b), when the officials are required to travel to a Member State other than their own.

- 3. Member States shall pay the expenses relating to the language training of their staff as provided for in Article 6.

Article 8

The annual budget appropriations for the measures provided for in the programme shall be adopted in the context of the budgetary procedure and in compliance with the relevant financial perspective.

Article 9

In carrying out its tasks, the Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith.

In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the fourth subparagraph.

Article 10

1. The Matthaëus programme shall be multiannual.
2. The Commission shall submit an annual report on the implementation of the Matthaëus programme to the European Parliament and to the Council.

Article 11

Before 1 July 1993, the Commission shall submit a report on the experience acquired in implementing the Matthaëus programme to the European Parliament and to the Council, accompanied, if appropriate, by a proposal for its adaptation.

Article 12

This Decision shall be applicable from 1 January 1991.

Article 13

This Decision is addressed to the Member States.

Done at Luxembourg, 20 June 1991.

For the Council
The President
R. GOEBBELS

*ANNEX I***EXCHANGE OF CUSTOMS OFFICIALS BETWEEN NATIONAL ADMINISTRATIONS**

1. The exchange of officials covers: trainers in Member States' customs schools, heads of customs offices, officials responsible for implementing Community law and officials responsible for combating fraud.
2. The exchange of officials is based on the principle of twinning. Twinning consists of the exchange between customs services of a number of officials performing similar duties and tasks.

Exceptions to the twinning rule may be authorized in particular for officials responsible for combating fraud.
3. Exchange officials should have a good knowledge of the language of the country in which the host service is situated.

Exceptions may be made to this rule in duly justified cases.
4. Each Member State will be required to exchange its officials participating in the exchange scheme with all other Member States in the Community.
5. The duration of the exchanges will be fixed taking into account the requirements of the host and donor services as well as the nature of the duties and the grades of the exchange officials.
6. Member States must inform the Commission at regular intervals of the nature of their language training and their expenditure thereon.

*ANNEX II***TRAINING SEMINARS**

1. **Training seminars for trainers in Member States' customs schools**

These seminars will be organized by the Commission departments in collaboration with the relevant national administrations.

They will cover specific topics to be determined beforehand.

There will be an exchange of views on teaching methods, educational approaches and on the material used, resulting in a closer alignment and improvement of education methods and criteria within the Community.

These seminars may be conducted by university professors, representatives from business circles, national administrations and Community institutions.

2. **Training seminars for officials responsible for implementing Community law and combating fraud**

Officials participating in the seminars will be chosen on the basis of their experience in the field covered.

The topics will cover problems encountered by officials in implementing Community law.

A special place will be devoted to combating fraud.

If the nature of the proposed topics allows, business and university circles may be called to attend or, where appropriate, speak.

*ANNEX III***Implementation of common vocational training programmes in Member States' customs schools**

1. A common training programme for customs officials will be established according to the procedure laid down in Article 9.

This programme will comprise the study of:

- (a) the European Communities and their foundations;
 - (b) Community customs law;
 - (c) common policies;
 - (d) principles of community taxation policy;
 - (e) certain international organizations (GATT, CCD, etc.).
2. The common training programme will be implemented in the Member States' customs schools. The Member States must provide the necessary facilities for this purpose.
 3. The common programme will be taught over a period of time. Each administration will implement the programme according to its own procedures.
 4. Each customs school will decide on the time to be allocated to the various subjects envisaged in the light of its particular requirements.
 5. The educational material of each customs school may be made available to other schools.
The Commission may also provide educational material for the customs schools, should the need arise.
 6. Trainers will be required to give instruction in the customs schools of several Member States. Using its officials, the Commission will also participate in the teaching of certain disciplines.
 7. Specific common further training and specialized programmes will be prepared according to the procedure laid down in Article 9. These programmes will be for those officials who already have professional experience.
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I

(Acts whose publication is obligatory)

COUNCIL DIRECTIVE 95/21/EC

of 19 June 1995

concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 84 (2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with Article 189c of the Treaty ⁽³⁾,

Whereas the Community is seriously concerned about shipping casualties and pollution of the seas and coastlines of the Member States;

Whereas the Community is equally concerned about on-board living and working conditions;

Whereas the Council, at its meeting on 25 January 1993, adopted conclusions that urged the Community and the Member States to ensure more effective application and enforcement of adequate international maritime safety and environment protection standards and to implement the new measures when adopted;

Whereas, in its resolution of 8 June 1993 on a common policy on safe seas ⁽⁴⁾, the Council urged the Commission to submit as soon as possible to the Council suggestions for specific action and formal proposals concerning criteria for the inspection of ships, including the harmonization of detention rules, and including the possibility of publication of the results of the inspections and refusal of access to Community ports;

Whereas safety, pollution prevention and shipboard living and working conditions may be effectively enhanced

through a drastic reduction of substandard ships from Community waters, by strictly applying international Conventions, codes and resolutions;

Whereas monitoring the compliance of ships with the international standards for safety, pollution prevention and shipboard living and working conditions should rest primarily with the flag State; whereas, however, there is a serious failure on the part of an increasing number of flag States to implement and enforce international standards; whereas henceforth the monitoring of compliance with the international standards for safety, pollution prevention and shipboard living and working conditions has also to be ensured by the port State;

Whereas a harmonized approach to the effective enforcement of these international standards by the Member States in respect of ships sailing in the waters under their jurisdiction and using their ports will avoid distortions of competition;

Whereas a framework in Community law for harmonizing inspection procedures is fundamental to ensuring the homogeneous application of the principles of shipping safety and prevention of pollution which lie at the heart of Community transport and environment policies;

Whereas pollution of the seas is by nature a trans-boundary phenomenon; whereas, in accordance with the principle of subsidiarity, the development of the means of taking preventive action in this field as regards the seas adjacent to the Member States is best done at Community level, since Member States cannot take adequate and effective action in isolation;

Whereas the adoption of a Council Directive is the appropriate procedure for laying down the legal framework and the harmonized rules and criteria for port State control;

Whereas advantage should be taken of the experience gained during the operation of the Paris Memorandum of Understanding (MOU) on Port State Control (PSC), signed in Paris on 26 January 1982;

Whereas the inspection by each Member State of at least 25% of the number of individual foreign ships which

⁽¹⁾ OJ No C 107, 15. 4. 1994, p. 14 and OJ No C 347, 8. 12. 1944, p. 15.

⁽²⁾ OJ No 393, 31. 12. 1994, p. 50.

⁽³⁾ Opinion of the European Parliament of 27 October 1994 (OJ No C 347, 8. 12. 1994, p. 15), Council common position of 14 March 1995 (OJ No C 93, 13. 4. 1995, p. 25) and European Parliament Decision of 18 May 1995 (not yet published in the Official Journal).

⁽⁴⁾ OJ No C 271, 7. 10. 1993, p. 1.

enter its ports in a given year in practice means that a large number of ships operating within the Community area at any given time have undergone an inspection;

Whereas further efforts should be made to develop a better targeting system;

Whereas the rules and procedures for port-State inspections, including criteria for the detention of ships, must be harmonized to ensure consistent effectiveness in all ports, which would also drastically reduce the selective use of certain ports of destination to avoid the net of proper control;

Whereas the casualty, detention and deficiency statistics published in the Commission's communication entitled 'A common policy on safe seas' and in the annual report of the MOU show that certain categories of ships need to be subject to an expanded inspection;

Whereas non-compliance with the provisions of the relevant Conventions must be rectified; whereas ships which are required to take corrective action must, where the deficiencies in compliance are clearly hazardous to safety, health or the environment, be detained until such time as the non-compliance has been rectified;

Whereas a right of appeal should be made available against decisions for detention taken by the competent authorities, in order to prevent unreasonable decisions which are liable to cause undue detention and delay;

Whereas the facilities in the port of inspection may be such that the competent authority will be obliged to authorize the ship to proceed to an appropriate repair yard, provided that the conditions for the transfer are complied with; whereas non-complying ships would continue to pose a threat to safety, health or the environment and to enjoy commercial advantages by not being upgraded in accordance with the relevant provisions of the Conventions and should therefore be refused access to all ports in the Community;

Whereas there are circumstances where a ship which has been refused access to ports within the Community has to be granted permission to enter; whereas under such circumstances the ship should only be permitted access to a specific port if all precautions are taken to ensure it safe entry;

Whereas, given the complexity of the requirements of the Conventions as regards a ship's construction, equipment and manning, the severe consequences of the decisions taken by the inspectors, and the necessity for the inspectors to take completely impartial decisions, inspections must be carried out only by inspectors who are duly authorized public service employees or other

such persons, and highly knowledgeable and experienced;

Whereas pilots and port authorities may be able to provide useful information on the deficiencies of such ships and crews;

Whereas cooperation between the competent authorities of the Member States and other authorities or organizations is necessary to ensure an effective follow-up with regard to ships with deficiencies which have been permitted to proceed and for the exchange of information about ships in port;

Whereas the information system called Sirenac E established under the MOU provides a large amount of the additional information needed for the application of this Directive;

Whereas publication of information concerning ships which do not comply with international standards on safety, health and protection of the marine environment, may be an effective deterrent discouraging shippers to use such ships, and an incentive to their owners to take corrective action without being compelled to do so;

Whereas all costs of inspecting ships which warrant detention should be borne by the owner or the operator;

Whereas for the purposes of implementing this Directive use should be made of the Committee set up pursuant to Article 12 of Council Directive 93/75/EEC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods⁽¹⁾ in order to assist the Commission with the task of adapting Member States' inspection obligations on the basis of experience gained, taking into account developments in the MOU, and also adopting the Annexes as necessary in the light of amendments to the Conventions, Protocols, codes and resolutions of relevant international bodies and to the MOU,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Purpose

The purpose of this Directive is to help drastically to reduce substandard shipping in the waters under the jurisdiction of Member States by:

- increasing compliance with international and relevant Community legislation on maritime safety, protection

⁽¹⁾ OJ No L 247, 5. 10. 1993, p. 19.

of the marine environment and living and working conditions on board ships of all flags,

- establishing common criteria for control of ships by the port State and harmonizing procedures on inspection and detention, taking proper account of the commitments made by the maritime authorities of the Member States under the Paris Memorandum of Understanding on Port State Control (MOU).

Article 2

Definitions

For the purpose of this Directive including its Annexes:

1. 'Conventions' means:

- the International Convention on Load Lines, 1966 (LL 66),
- the International Convention for the Safety of Life at Sea, 1974 (Solas 74),
- the International Convention for the Prevention of Pollution from Ships, 1973, and the 1978 Protocol relating thereto (Marpol 73/78),
- the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STEW 78),
- the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Colreg 72),
- the International Convention on Tonnage Measurement of Ships, 1969 and
- the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO No 147),

together with the Protocols and amendments to these Conventions and related codes of mandatory status, in force at the date of adoption of this Directive.

2. 'MOU' means the Memorandum of Understanding on Port State Control, signed in Paris on 26 January 1982, as it stands at the date of adoption of this Directive.
3. 'Ship' means any seagoing vessel to which one or more of the Conventions apply, flying a flag other than that of the port State.
4. 'Off-shore installation' means a fixed or floating platform operating on or over the continental shelf of a Member State.

5. 'Inspector' means a public-sector employee or other person, duly authorized by the competent authority of a Member State to carry out port-State control inspections, and responsible to that competent authority.

6. 'Inspection' means a visit on board a ship in order to check both the validity of the relevant certificates and other documents and the condition of the ship, its equipment and crew, as well as the living and working conditions of the crew.

7. 'More detailed inspection' means an inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof are subjected, in the circumstances specified in Article 6 (3), to an in-depth inspection covering the ship's construction, equipment, manning, living and working conditions and compliance with on-board operational procedures.

8. 'Expanded inspection' means an inspection as specified in Article 7.

9. 'Detention' means the formal prohibition of a ship to proceed to sea due to established deficiencies which, individually or together, make the ship unseaworthy.

10. 'Stoppage of an operation' means a formal prohibition of a ship to continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous.

Article 3

Scope

1. This Directive applies to any ship and its crew:

- calling at a port of a Member State or at an off-shore installation, or
- anchored off such a port or such an installation.

Nothing in this Article shall affect the rights of intervention available to a Member State under the relevant international Conventions.

2. In case of ships of a gross tonnage below 500, Member States shall apply those requirements of a relevant Convention which are applicable and shall, to the extent that a Convention does not apply, take such action as may be necessary to ensure that the ships concerned are not clearly hazardous to safety, health or the environment. In their application of this paragraph, Member States shall be guided by Annex 1 to the MOU.

3. When inspecting a ship flying the flag of a State which is not a party to a Convention, Member States shall ensure that the treatment given to such ship and its crew is no more favourable than that given to a ship flying the flag of a State which is a party to that Convention.

4. Fishing vessels, ships of war, naval auxiliaries, wooden ships of a primitive build, government ships used for non-commercial purposes and pleasure yachts not engaged in trade shall be excluded from the scope of this Directive.

Article 4

Inspection body

Member States shall maintain appropriate national maritime administrations, hereinafter called 'competent authorities', for the inspection of ships and shall take whatever measures are appropriate to ensure that their competent authorities perform their duties as laid down in this Directive.

Article 5

Inspection commitments

1. The competent authority of each Member State shall carry out an annual total number of inspections corresponding to at least 25% of the number of individual ships which entered its ports during a representative calendar year.

2. In selecting ships for inspection the competent authority shall give priority to the ships referred to in Annex I.

3. Member States shall refrain from inspecting ships which have been inspected by any Member State within the previous six months, provided that:

- the ship is not listed in Annex I, and
- no deficiencies have been reported, following a previous inspection, and
- no clear grounds exist for carrying out an inspection.

4. The provisions of paragraph 3 shall not apply to any of the operational controls specifically provided for in the Conventions.

5. The Member States and the Commission shall cooperate in seeking to develop priorities and practices which will enable ships likely to be defective to be targeted more effectively.

Any consequent amendment of this Article, except to the figure of 25% in paragraph 1, shall be made under the provisions of Article 19.

Article 6

Inspection procedure

1. The competent authority shall ensure that the inspector shall as a minimum:

- (a) check the certificates and documents listed in Annex II, to the extent applicable;
- (b) satisfy himself of the overall condition of the ship, including the engine room and accommodation and including hygienic conditions.

2. The inspector may examine all relevant certificates and documents, other than those listed in Annex II, which are required to be carried on board in accordance with the Conventions.

3. Whenever there are clear grounds for believing, after the inspection referred to in paragraphs 1 and 2, that the condition of a ship or of its equipment or crew does not substantially meet the relevant requirements of a Convention, a more detailed inspection shall be carried out, including further checking of compliance with on-board operational requirements.

'Clear grounds' exist when the inspector finds evidence which in his professional judgement warrants a more detailed inspection of the ship, its equipment or its crew.

Examples of 'clear grounds' are set out in Annex III.

4. The relevant procedures and guidelines for the control of ships specified in Annex IV shall also be observed.

Article 7

Expanded inspection of certain ships

1. Where there are clear grounds for a detailed inspection of a ship belonging to the categories listed in Annex V, Member States shall ensure that an expanded inspection is carried out.

2. Annex V, section B, contains non-mandatory guidelines for expanded inspection.

3. The ships referred to in paragraph 1 shall be subject to an expanded inspection by any of the competent authorities of the Member States only once during a period of 12 months. However, these ships may be subject to the inspection provided for in Article 6 (1) and (2).

4. In the case of passenger ships operating on a regular schedule in or out of a port in a Member State, an expanded inspection of each ship shall be carried out by the competent authority of that Member State. When a

passenger ship operates such a schedule between ports in Member States, one of the States between which the ship is operating shall undertake the expanded inspection.

Article 8

Report of inspection to the master

1. On completion of an inspection, a more detailed inspection, or an expanded inspection, the master of the ship shall be provided by the inspector with a document in the form specified in Annex 3 to the MOU, giving the results of the inspection and details of any decisions taken by the inspector, and of corrective action to be taken by the master, owner or operator.

2. In the case of deficiencies warranting the detention of a ship, the document to be given to the master in accordance with paragraph 1 shall include information about the future publication of the detention order in accordance with the provisions of this Directive.

Article 9

Rectification and detention

1. The competent authority shall be satisfied that any deficiencies confirmed or revealed by the inspection referred to in Articles 6 and 7 are or will be rectified in accordance with the Conventions.

2. In the case of deficiencies which are clearly hazardous to safety, health or the environment, the competent authority of the port State where the ship is being inspected shall ensure that the ship is detained, or the operation in the course of which the deficiencies have been revealed is stopped. The detention order or stoppage of an operation shall not be lifted until the hazard is removed or until such authority establishes that the ship can, subject to any necessary conditions, proceed to sea or the operation be resumed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

3. When exercising his professional judgment as to whether or not a ship should be detained, the inspector shall apply the criteria set out in Annex VI.

4. In exceptional circumstances, where the overall condition of a ship is obviously substandard, the competent authority may suspend the inspection of that ship until the responsible parties have taken the steps necessary to ensure that it complies with the relevant requirements of the Conventions.

5. In the event that the inspections referred to in Articles 6 and 7 give rise to detention, the competent authority shall immediately inform, in writing, the administration of the State whose flag the ship is entitled

to fly (hereinafter called 'flag administration') or the Consul or, in his absence, the nearest diplomatic representative of the State, of all the circumstances in which intervention was deemed necessary. In addition, nominated surveyors or recognized organizations responsible for the issue of the ship's certificates shall also be notified where relevant.

6. The provisions of this Directive shall be without prejudice to the additional requirements of the Conventions concerning notification and reporting procedures related to port State control.

7. When exercising port State control under this Directive, all possible efforts shall be made to avoid a ship being unduly detained or delayed. If a ship is unduly detained or delayed, the owner or operator shall be entitled to compensation for any loss or damage suffered. In any instance of alleged undue detention or delay the burden of proof shall lie with the owner or operator of the ship.

Article 10

Right of appeal

1. The owner or the operator of a ship or his representative in the Member State shall have a right of appeal against a detention decision taken by the competent authority. An appeal shall not cause the detention to be suspended.

2. Member States shall establish and maintain appropriate procedures for this purpose in accordance with their national legislation.

3. The competent authority shall properly inform the master of a ship referred to in paragraph 1 of the right of appeal.

Article 11

Follow-up to inspections and detention

1. Where deficiencies as referred to in Article 9 (2) cannot be rectified in the port of inspection, the competent authority of that Member State may allow the ship concerned to proceed to the nearest appropriate repair yard available, as chosen by the master and the authorities concerned, provided that the conditions determined by the competent authority of the flag State and agreed by that Member State are complied with. Such conditions shall ensure that the ship can proceed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

2. In the circumstances referred to in paragraph 1, the competent authority of the Member State in the port of

inspection shall notify the competent authority of the State where the repair yard is situated, the parties mentioned in Article 9 (5) and any other authority as appropriate of all the conditions for the voyage.

3. The notification of the parties referred to in paragraph 2 shall be in accordance with Annex 2 to the MOU.

The competent authority of a Member State receiving such notification shall inform the notifying authority of the action taken.

4. Member States shall take measures to ensure that ships referred to in paragraph 1 which proceed to sea:

- (i) without complying with the conditions determined by the competent authority of any Member State in the port of inspection; or
- (ii) which refuse to comply with the applicable requirements of the Conventions by not calling into the indicated repair yard;

shall be refused access to any port within the Community, until the owner or operator has provided evidence to the satisfaction of the competent authority of the Member State where the ship was found defective that the ship fully complies with all applicable requirements of the Conventions.

5. In the circumstances referred to in paragraph 4 (i), the competent authority of the Member State where the ship was found defective shall immediately alert the competent authorities of all the other Member States.

In the circumstances referred to in paragraph 4 (ii), the competent authority of the Member State in which the repair yard lies shall immediately alert the competent authorities of all the other Member States.

Before denying entry, the Member State may request consultations with the flag administration of the ship concerned.

6. Notwithstanding the provisions of paragraph 4, access to a specific port may be permitted by the relevant authority of that port State in the event of *force majeure* or overriding safety considerations, or to reduce or minimize the risk of pollution or to have deficiencies rectified, provided adequate measures to the satisfaction of the competent authority of such Member State have been implemented by the owner, the operator or the master of the ship to ensure safe entry.

Article 12

Professional profile of inspectors

1. The inspections shall be carried out only by inspectors who fulfil the qualification criteria specified in Annex VII.

2. When the required professional expertise cannot be provided by the competent authority of the port State, the inspector of that competent authority may be assisted by any person with the required expertise.

3. The inspectors carrying out port State control and the persons assisting them shall have no commercial interest either in the port of inspection or in the ships inspected, nor shall the inspectors be employed by or undertake work on behalf of non-governmental organizations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.

4. Each inspector shall carry a personal document in the form of an identity card issued by his competent authority in accordance with the national legislation, indicating that the inspector is authorized to carry out inspections.

A common model for such an identity card shall be established in accordance with the procedure in Article 19.

Article 13

Reports from pilots and port authorities

1. Pilots of Member States, engaged in berthing or unberthing ships or engaged on ships bound for a port within a Member State, shall immediately inform the competent authority of the port State or the coastal State, as appropriate, whenever they learn in the course of their normal duties that there are deficiencies which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

2. If port authorities, when exercising their normal duties, learn that a ship within their port has deficiencies which may prejudice the safety of the ship or poses an unreasonable threat of harm to the marine environment, such authority shall immediately inform the competent authority of the port State concerned.

Article 14

Cooperation

1. Each Member State shall make provision for cooperation between its competent authority, its port authorities and other relevant authorities or commercial organizations to ensure that its competent authority can obtain all relevant information on ships calling at its ports.

2. Member States shall maintain provisions for the exchange of information and cooperation between their

competent authority and the competent authorities of all other Member States and maintain the established operational link between their competent authority, the Commission and the Sirenac E information system set up in St Malo, France.

3. The information referred to in paragraph 2 shall be that specified in Annex 4 to the MOU, and that required to comply with Article 15 of this Directive.

Article 15

Publication of detentions

Each competent authority shall as a minimum publish quarterly information concerning ships detained during the previous three-month period and which have been detained more than once during the past 24 months. The information published shall include the following:

- name of the ship,
- name of the shipowner or the operator of the ship,
- IMO number,
- flag State,
- the classification society, where relevant, and, if applicable, any other Party which has issued certificates to such ship in accordance with the Conventions on behalf of the flag State,
- reason for detention,
- port and date of detention.

Article 16

Reimbursement of costs

1. Should the inspections referred to in Articles 6 and 7 confirm or reveal deficiencies in relation to the requirements of a Convention warranting the detention of a ship, all costs relating to the inspections in any normal accounting period shall be covered by the shipowner or the operator or by his representative in the port State.

2. All costs relating to inspections carried out by the competent authority of a Member State under the provisions of Article 11 (4) shall be charged to the owner or operator of the ship.

3. The detention shall not be lifted until full payment has been made or a sufficient guarantee has been given for the reimbursement of the costs.

Article 17

Data to monitor implementation

1. Member States shall supply the following information to the Commission and the MOU Secretariat:

- number of inspectors working on their behalf on port State inspection in accordance with this Directive. For authorities where inspectors perform port-State inspections on a part-time basis only, the total must be converted into a number of full-time employed inspectors,
- number of individual ships entering their ports in a representative calendar year within the previous five-year period.

2. The information listed in paragraph 1 shall be forwarded within three months following the entry into force of this Directive and thereafter by 1 October once every three calendar years.

Article 18

Regulatory Committee

The Commission shall be assisted by the Committee set up pursuant to Article 12 of Directive 93/75/EEC in accordance with the procedure laid down in that Article.

Article 19

Amendment procedure

This Directive may be amended in accordance with the procedure laid down in Article 18, in order to:

- (a) adapt the inspection and publication obligations of Member States mentioned in Article 5 (except the figure of 25 % referred to in paragraph 1 thereof), and in Articles 6, 7 and 15 on the basis of the experience gained from implementation of this Directive and taking into account developments in the MOU;
- (b) adapt the Annexes in order to take into account amendments which have entered into force to the Conventions, Protocols, codes and resolutions of relevant international organizations and to the MOU.

Article 20

Implementation

1. Member States shall adopt the laws, regulations and administrative provisions necessary to implement this

Directive not later than 30 June 1996 and shall forthwith inform the Commission thereof.

2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by Member States.

3. Member States shall communicate to the Commission the text of the provisions of national law which they have adopted in the field governed by this Directive.

Article 21

This Directive shall enter into force on the 20th day following that of its publication.

Article 22

This Directive is addressed to the Member States.

Done at Luxembourg, 19 June 1995.

For the Council

The President

B. PONS

ANNEX I

SHIPS TO BE CONSIDERED FOR PRIORITY INSPECTION

(as referred to in Article 5 (2)) (*)

1. Ships visiting a port of a Member State for the first time or after an absence of 12 months or more. In applying these criteria Member States shall also take into account those inspections which have been carried out by members of the MOU. In the absence of appropriate data for this purpose, Member States shall rely upon the available Sirenac E data and inspect those ships which have not been registered in the Sirenac E database following the entry into force of that database on 1 January 1993.
2. Ships flying the flag of a State appearing in the three-year rolling average table of above-average detentions and delays published in the annual report of the MOU.
3. Ships which have been permitted to leave the port of a Member State on condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period.
4. Ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation (pursuant to Council Directive 93/75/EEC of 13 September 1993 and Article 13 of this Directive).
5. Ships whose statutory certificates on the ship's construction and equipment, issued in accordance with the Conventions, and the classification certificates, have been issued by an organization which is not recognized under the terms of Council Directive 94/57/EC of 22 November 1994 (1) on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations.
6. Ships which have failed to comply with the obligations laid down in Council Directive 93/75/EEC.
7. Ships which are in a category for which expanded inspection has been decided (pursuant to Article 7 of this Directive).
8. Ships which have been suspended from their class for safety reasons in the course of the preceding six months.

(*) The sequence of the criteria is not indicative of the order of their importance.

(1) OJ No L 319, 12. 12. 1994, p. 20.

ANNEX II

LIST OF CERTIFICATES AND DOCUMENTS

(referred to in Article 6 (1))

1. International Tonnage Certificate (1969)
2. — Passenger Ship Safety Certificate,
 - Cargo Ship Safety Construction Certificate,
 - Cargo Ship Safety Equipment Certificate,
 - Cargo Ship Safety Radiotelegraphy Certificate,
 - Cargo Ship Safety Radiotelephony Certificate;
 - Cargo Ship Safety Radio Certificate,
 - Exemption Certificate,
 - Cargo Ship Safety Certificate.
3. International Certificate of Fitness for Carriage of Liquefied Gases in Bulk;
 - Certificate of Fitness for the Carriage of Liquefied Gases in Bulk.
4. International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;
 - Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk.
5. International Oil Pollution Prevention Certificate.
6. International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.
7. International Load Line Certificate (1966);
 - International Load Line Exemption Certificate.
8. Oil record book, parts I and II.
9. Cargo record book.
10. Minimum Safe Manning Document;
 - Certificates of Competency.
11. Medical certificates, (see ILO Convention No 73 concerning Medical Examination of Seafarers).
12. Stability information.
13. Copy of Document of Compliance and Certificate issued in accordance with The International Management Code for the Safe Operation of Ships and for Pollution Prevention (IMO Resolution A.741 (18)).
14. Certificates as to the ship's hull strength and machinery installations issued by the classification society in question (only to be required if the ship maintains its class with a classification society).

ANNEX III

EXAMPLES OF 'CLEAR GROUNDS' FOR A MORE DETAILED INSPECTION

(as referred to in Article 6 (3))

1. Ships identified in Annex I, with the exception of No 1.
2. A report or notification by another Member State.
3. A report or complaint by the master, a crew member, or any person or organization with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless the Member State concerned deems the report or complaint to be manifestly unfounded; the identity of the person lodging the report or the complaint must not be revealed to the master or the shipowner of the ship concerned.
4. The ship has been involved in a collision on its way to the port.
5. The oil record book has not been properly kept.
6. The ship has been accused of an alleged violation of the provisions on discharge of harmful substances or effluents.
7. During examination of the certificates and other documentation, (see Article 6 (1) (a) and (2)), inaccuracies have been revealed.
8. Indications that the crew members are unable to comply with the requirements of Article 8 of Directive 94/58/EC of 22 November 1994 on the minimum level of training of seafarers ⁽¹⁾.
9. Evidence of cargo and other operations not being conducted safely, or in accordance with IMO guidelines, e.g. the content of oxygen in the inert-gas mains supply to the cargo tanks is above the prescribed maximum level.
10. Failure of the master on an oil tanker to produce the record of the oil discharge monitoring and control system for the last ballast voyage.
11. Absence of an up-to-date muster list, or crew members not aware of their duties in the event of fire or an order to abandon ship.

⁽¹⁾ OJ No L 319, 12. 12. 1994, p. 28.

ANNEX IV

PROCEDURES FOR THE CONTROL OF SHIPS

(as referred to in Article 6 (4))

1. Procedures for the Control of Ships (IMO Resolution A.466 (XII)), as amended.
 2. Principles of Safe Manning (IMO Resolution A.481 (XII) and Annexes which are Contents of Minimum Safe Manning Document (Annex 1) and Guidelines for the Application of Principles of Safe Manning (Annex 2).
 3. Procedures for the Control of Ships and Discharges under Annex I to Marpol 73/78 (IMO Resolution A.542 (13)).
 4. Procedures for the Control of Ships and Discharges under Annex II to Marpol 73/78 (IMO Resolution MEPC 26 (23)).
 5. Procedures for the Control of Operational Requirements Related to the Safety of Ships and Pollution Prevention (IMO Resolution A.742 (18)).
 6. The Provisions of the International Maritime Dangerous Goods Code.
 7. International Labour Organization (ILO) publication 'Inspection of Labour Conditions on Board Ship: Guidelines for Procedure'.
 8. Annex I to the Paris MOU guidelines for surveyors.
-

ANNEX V

A. CATEGORIES OF SHIPS SUBJECT TO EXPANDED INSPECTION

(as referred to in Article 7 (1))

1. Oil tankers, five years or less from the date of phasing out in accordance with Marpol 73/78, Annex I, Regulation 13G, i.e.
 - a crude oil tanker of 20 000 tonnes deadweight and above or a product carrier of 30 000 tonnes deadweight and above, not meeting the requirements of a new oil tanker as defined in Regulation 1 (26) of Annex I to Marpol 73/78, will be subject to expanded inspection 20 years after its date of delivery as indicated on the Supplement, Form B, to the IOPP Certificate, or 25 years after that date, if the ship's wing tanks or double-bottom spaces not used for the carriage of oil meet the requirements of Regulation 13G (4) of that Annex, unless it has been reconstructed to comply with Regulation 13F of the same Annex,
 - an oil tanker as mentioned above meeting the requirements of a new oil tanker as defined in Regulation 1 (26) of Annex I to Marpol 73/78 will be subject to expanded inspection 25 years after its date of delivery as indicated on the Supplement, Form B, to the IOPP Certificate, unless it complies with or has been reconstructed to comply with Regulation 13F of that Annex.
2. Bulk carriers, older than 12 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.
3. Passenger ships.
4. Gas and chemical tankers older than 10 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.

B. NON-MANDATORY GUIDELINES FOR EXPANDED INSPECTION OF CERTAIN CATEGORIES OF SHIPS

(as referred to in Article 7 (2))

To the extent applicable the following items may be considered as part of an expanded inspection. Inspectors must be aware that it may jeopardize the safe execution of certain on-board operations, e.g. cargo operation, if tests having a direct effect thereon, are required to be carried out during such operations.

1. SHIPS IN GENERAL (categories in section A)

- Black-out and start of emergency generator.
- Inspection of emergency lighting.
- Operation of emergency fire-pump with two firehoses connected to the fire main-line.
- Operation of bilge pumps.
- Closing of watertight doors.
- Lowering of one seaside lifeboat to the water.
- Test of remote emergency stop for e.g. boilers, ventilation and fuel pumps.
- Testing of steering gear including auxiliary steering gear.
- Inspection of emergency source of power to radio installations.
- Inspection and, to the extent possible, test of engine-room separator.

2. OIL TANKERS

In addition to the items listed under section 1, the following items may also be considered as part of the expanded inspection for oil tankers:

- Fixed-deck foam system.

- Fire-fighting equipment in general,
- Inspection of fire dampers to engine room, pump room and accommodation,
- Control of pressure of inert gas and oxygen content thereof,
- Check of the Survey Report File (see IMO Resolution A.744(18)) to identify possible suspect areas requiring inspection.

3. BULK CARRIERS

In addition to the items listed under section 1, the following items may also be considered as part of the expanded inspection for bulk carriers:

- Possible corrosion of deck machinery foundations,
- Possible deformation and/or corrosion of hatch covers,
- Possible cracks or local corrosion in transverse bulkheads,
- Access to cargo holds,
- Check of the Survey Report File, (see IMO Resolution A.744(18)) to identify possible suspect areas requiring inspection.

4. GAS AND CHEMICAL TANKERS

In addition to the items listed under section 1, the following items can also be considered as part of the expanded inspection for gas and chemical tankers:

- Cargo tank monitoring and safety devices relating to temperature, pressure and ullage,
- Oxygen analysing and explosimeter devices, including their calibration. Availability of chemical detection equipment (bellows) with an appropriate number of suitable gas detection tubes for the specific cargo being carried,
- Cabin escape sets giving suitable respiratory and eye protection, for every person on board (if required by the products listed on the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk as applicable),
- Check that the product being carried is listed in the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk as applicable,
- The fixed fire-fighting installations on deck whether they be foam or dry chemical or other as required by the product carried.

5. PASSENGER SHIPS

In addition to the items listed under section 1, the following items may also be considered as part of the expanded inspection for passenger ships.

- Testing of fire detection and alarm system,
- Testing of proper closing of fire doors,
- Test of public address system,
- Fire drill where, as a minimum, all sets of fireman's outfits must be demonstrated and part of the catering crew take part,
- Demonstration that key crew members are acquainted with the damage control plan.

If deemed appropriate the inspection may be continued while the ship is on passage to or from the port in the Member State, with the consent of the shipmaster or the operator. Inspectors must not obstruct the operation of the ship, nor must they induce situations that, in the master's judgment, could endanger the safety of the passengers, the crew and the ship.

ANNEX VI

CRITERIA FOR DETENTION OF A SHIP

(as referred to in Article 9 (3))

Introduction

Before determining whether deficiencies found during an inspection warrant detention of the ship involved, the inspector must apply the criteria mentioned below in sections 1 and 2.

Section 3 includes examples of deficiencies that may for themselves warrant detention of the ship involved (see Article 9 (3)).

1. Main criteria

When exercising his professional judgement as to whether or not a ship should be detained the inspector must apply the following criteria:

Timing:

Ships which are unsafe to proceed to sea must be detained upon the first inspection irrespective of how much time the ship will stay in port.

Criterion:

The ship is detained if its deficiencies are sufficiently serious to merit an inspector returning to satisfy himself that they have been rectified before the ship sails.

The need for the inspector to return to the ship is a measure of the seriousness of the deficiencies. However, it does not impose such an obligation for every case. It implies that the authority must verify one way or another, preferably by a further visit, that the deficiencies have been rectified before departure.

2. Application of main criteria

When deciding whether the deficiencies found in a ship are sufficiently serious to merit detention the inspector must assess whether:

1. the ship has relevant, valid documentation;
2. the ship has the crew required in the Minimum Safe Manning Document.

During inspection the inspector must further assess whether the ship and/or crew is able to:

3. navigate safely throughout the forthcoming voyage;
4. safely handle, carry and monitor the condition of the cargo throughout the forthcoming voyage;
5. operate the engine room safely throughout the forthcoming voyage;
6. maintain proper propulsion and steering throughout the forthcoming voyage;
7. fight fires effectively in any part of the ship if necessary during the forthcoming voyage;
8. abandon ship speedily and safely and effect rescue if necessary during the forthcoming voyage;
9. prevent pollution of the environment throughout the forthcoming voyage;
10. maintain adequate stability throughout the forthcoming voyage;
11. maintain adequate watertight integrity throughout the forthcoming voyage;
12. communicate in distress situations if necessary during the forthcoming voyage;
13. provide safe and healthy conditions on board throughout the forthcoming voyage.

If the answer to any of these assessments is negative, taking into account all deficiencies found, the ship must be strongly considered for detention. A combination of deficiencies of a less serious nature may also warrant the detention of the ship.

3. To assist the inspector in the use of these guidelines, there follows a list of deficiencies, grouped under relevant conventions and/or codes, which are considered of such a serious nature that they may warrant the detention of the ship involved. This list is not intended to be exhaustive.

- 3.1. *General*

The lack of valid certificates as required by the relevant instruments. However, ships flying the flag of States not party to a Convention (relevant instrument) or not having implemented another relevant instrument, are not entitled to carry the certificates provided for by the Convention or other relevant instrument. Therefore, absence of the required certificates should not by itself constitute reason to detain these ships; however, in applying the 'no more favourable treatment' clause, substantial compliance with the provisions is required before the ship sails.

- 3.2. *Areas under the Solas Convention* (References are given in brackets)

1. Failure of the proper operation of propulsion and other essential machinery, as well as electrical installations.
2. Insufficient cleanliness of engine room, excess amount of oily-water mixtures in bilges, insulation of piping including exhaust pipes in engine room contaminated by oil, improper operation of bilge pumping arrangements.
3. Failure of the proper operation of emergency generator, lighting, batteries and switches.
4. Failure of the proper operation of the main and auxiliary steering gear.
5. Absence, insufficient capacity or serious deterioration of personal life-saving appliances, survival craft and launching arrangements.
6. Absence, non-compliance or substantial deterioration of fire detection system, fire alarms, firefighting equipment, fixed fire-extinguishing installation, ventilation valves, fire dampers, quick-closing devices to the extent that they cannot comply with their intended use.
7. Absence, substantial deterioration or failure of proper operation of the cargo deck area fire protection on tankers.
8. Absence, non-compliance or serious deterioration of lights, shapes or sound signals.
9. Absence or failure of the proper operation of the radio equipment for distress and safety communication.
10. Absence or failure of the proper operation of navigation equipment, taking the provisions of Solas Regulation V/12(o) into account.
11. Absence of corrected navigational charts, and/or all other relevant nautical publications necessary for the intended voyage, taking into account that electronic charts may be used as a substitute for the charts.
12. Absence of non-sparking exhaust ventilation for cargo pump rooms (Solas Regulation II-2/59.3.1).

- 3.3. *Areas under the IBC Code* (References are given in brackets)

1. Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information (16.2).
2. Missing or damaged high-pressure safety devices (8.2.3).
3. Electrical installations not intrinsically safe or not corresponding to code requirements (10.2.3).
4. Sources of ignition in hazardous locations referred to in 10.2 (11.3.15).

5. Contraventions of special requirements (15).
 6. Exceeding of maximum allowable cargo quality per tank (16.1).
 7. Insufficient heat protection for sensitive products (16.6).
- 3.4. *Areas under the IGC Code* (References are given in brackets)
1. Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information (18.1).
 2. Missing closing devices for accommodations or service spaces (3.2.6).
 3. Bulkhead not gastight (3.3.2).
 4. Defective air locks (3.6).
 5. Missing or defective quick-closing valves (5.6).
 6. Missing or defective safety valves (8.2).
 7. Electrical installations not intrinsically safe or not corresponding to code requirements (10.2.4).
 8. Ventilators in cargo area not operable (12.1).
 9. Pressure alarms for cargo tanks not operable (13.4.1).
 10. Gas detection plant and/or toxic gas detection plant defective (13.6).
 11. Transport of substances to be inhibited without valid inhibitor certificate (17/19).
- 3.5. *Areas under the Load Lines Convention*
1. Significant areas of damage or corrosion, or pitting of plating and associated stiffening in decks and hull affecting seaworthiness or strength to take local loads, unless proper temporary repairs for a voyage to a port for permanent repairs have been carried out.
 2. A recognized case of insufficient stability.
 3. The absence of sufficient and reliable information, in an approved form, which by rapid and simple means, enables the master to arrange for the loading and ballasting of his ship in such a way that a safe margin of stability is maintained at all stages and at varying conditions of the voyage, and that the creation of any unacceptable stresses in the ship's structure are avoided.
 4. Absence, substantial deterioration or defective closing devices, hatch closing arrangements and watertight doors.
 5. Overloading.
 6. Absence of draft mark or draft mark impossible to read.
- 3.6. *Areas under the Marpol Convention, Annex I* (References are given in brackets)
1. Absence, serious deterioration or failure of proper operation of the oily-water filtering equipment, the oil discharge monitoring and control system or the 15 ppm alarm arrangements.
 2. Remaining capacity of slop and/or sludge tank insufficient for the intended voyage.
 3. Oil Record Book not available (20 (5)).
 4. Unauthorized discharge bypass fitted.
- 3.7. *Areas under the Marpol Convention, Annex II* (References are given in brackets)
1. Absence of the P&A Manual.
 2. Cargo is not categorized (3 (4)).

3. No cargo record book available (9 (6)).
 4. Transport of oil-like substances without satisfying the requirements or without an appropriately amended certificate (14).
 5. Unauthorized discharge bypass fitted.
- 3.8. *Areas under the STCW Convention*
- Number, composition or certification of crew not corresponding with safe manning document.
- 3.9. *Areas under the ILO Conventions*
1. Insufficient food for voyage to next port.
 2. Insufficient potable water for voyage to next port.
 3. Excessively unsanitary conditions on board.
 4. No heating in accommodation of a ship operating in areas where temperatures may be excessively low.
 5. Excessive garbage, blockage by equipment or cargo or otherwise unsafe conditions in passageways/accommodations.
- 3.10. *Areas which may not warrant a detention, but where e.g. cargo operations have to be suspended.*
- Failure of the proper operation (or maintenance) of inert gas system, cargo-related gear or machinery are considered sufficient grounds for stopping cargo operation.
-

ANNEX VII

MINIMUM CRITERIA FOR INSPECTORS

(as referred to in Article 11 (1))

1. The inspector must be authorized to carry out port-State control by the competent authority of the Member State.
 2. Either:
 - The inspector must have completed a minimum of one year's service as a flag-State inspector dealing with surveys and certification in accordance with the Conventions,
 - and be in possession of:
 - (a) a certificate of competency as master, enabling that person to take command of a ship of 1 600 GT or more (see STCW, Regulation II/2); or
 - (b) a certificate of competency as chief engineer enabling him to take up that task on board a ship whose main power plant has a power equal or superior to 3 000 KW, (see STCW, Regulation III/2); or
 - (c) have passed an examination as a naval architect, mechanical engineer or an engineer related to the maritime fields and worked in that capacity for at least five years,
 - The inspectors mentioned under (a) and (b) must have served for a period of not less than five years at sea as officer in the deck- or engine-department respectively.
 - Or:

The inspector must:

 - hold a relevant university degree or an equivalent training, and
 - have been trained and qualified at a school for ship safety inspectors, and
 - have served at least two years as a flag-State inspector dealing with surveys and certification in accordance with the Conventions.
 3. Ability to communicate orally and in writing with seafarers in the language most commonly spoken at sea.
 4. Appropriate knowledge of the provisions of the international Conventions and of the relevant procedures on port-State control.
 5. Inspectors not fulfilling the above criteria are also accepted if they are employed by the competent authority of a Member State for port-State control at the date of adoption of this Directive.
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II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE 92/43/EEC

of 21 May 1992

on the conservation of natural habitats and of wild fauna and flora

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130s thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the preservation, protection and improvement of the quality of the environment, including the conservation of natural habitats and of wild fauna and flora, are an essential objective of general interest pursued by the Community, as stated in Article 130r of the Treaty;

Whereas the European Community policy and action programme on the environment (1987 to 1992) ⁽⁴⁾ makes provision for measures regarding the conservation of nature and natural resources;

Whereas, the main aim of this Directive being to promote the maintenance of biodiversity, taking account of economic, social, cultural and regional requirements, this Directive makes a contribution to the general objective of sustainable development; whereas the maintenance of such biodiversity may in certain cases require the maintenance, or indeed the encouragement, of human activities;

Whereas, in the European territory of the Member States, natural habitats are continuing to deteriorate and an increasing number of wild species are seriously threatened; whereas given that the threatened habitats and species form part of the Community's natural heritage and the threats to them are often of a transboundary nature, it is necessary to take measures at Community level in order to conserve them;

Whereas, in view of the threats to certain types of natural habitat and certain species, it is necessary to define them as having priority in order to favour the early implementation of measures to conserve them;

Whereas, in order to ensure the restoration or maintenance of natural habitats and species of Community interest at a favourable conservation status, it is necessary to designate special areas of conservation in order to create a coherent European ecological network according to a specified timetable;

Whereas all the areas designated, including those classified now or in the future as special protection areas pursuant to Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds ⁽⁵⁾, will have to be incorporated into the coherent European ecological network;

Whereas it is appropriate, in each area designated, to implement the necessary measures having regard to the conservation objectives pursued;

Whereas sites eligible for designation as special areas of conservation are proposed by the Member States but whereas

⁽¹⁾ OJ No C 247, 21. 9. 1988, p. 3 and OJ No C 195, 3. 8. 1990, p. 1.

⁽²⁾ OJ No C 75, 20. 3. 1991, p. 12.

⁽³⁾ OJ No C 31, 6. 2. 1991, p. 25.

⁽⁴⁾ OJ No C 328, 7. 12. 1987, p. 1.

⁽⁵⁾ OJ No L 103, 25. 4. 1979, p. 1. Directive as last amended by Directive 91/244/ECC (OJ No L 115, 8. 5. 1991, p. 41).

a procedure must nevertheless be laid down to allow the designation in exceptional cases of a site which has not been proposed by a Member State but which the Community considers essential for either the maintenance or the survival of a priority natural habitat type or a priority species;

Whereas an appropriate assessment must be made of any plan or programme likely to have a significant effect on the conservation objectives of a site which has been designated or is designated in future;

Whereas it is recognized that the adoption of measures intended to promote the conservation of priority natural habitats and priority species of Community interest is a common responsibility of all Member States; whereas this may, however, impose an excessive financial burden on certain Member States given, on the one hand, the uneven distribution of such habitats and species throughout the Community and, on the other hand, the fact that the 'polluter pays' principle can have only limited application in the special case of nature conservation;

Whereas it is therefore agreed that, in this exceptional case, a contribution by means of Community co-financing should be provided for within the limits of the resources made available under the Community's decisions;

Whereas land-use planning and development policies should encourage the management of features of the landscape which are of major importance for wild fauna and flora;

Whereas a system should be set up for surveillance of the conservation status of the natural habitats and species covered by this Directive;

Whereas a general system of protection is required for certain species of flora and fauna to complement Directive 79/409/EEC; whereas provision should be made for management measures for certain species, if their conservation status so warrants, including the prohibition of certain means of capture or killing, whilst providing for the possibility of derogations on certain conditions;

Whereas, with the aim of ensuring that the implementation of this Directive is monitored, the Commission will periodically prepare a composite report based, *inter alia*, on the information sent to it by the Member States regarding the application of national provisions adopted under this Directive;

Whereas the improvement of scientific and technical knowledge is essential for the implementation of this Directive; whereas it is consequently appropriate to encourage the necessary research and scientific work;

Whereas technical and scientific progress mean that it must be possible to adapt the Annexes; whereas a procedure should be established whereby the Council can amend the Annexes;

Whereas a regulatory committee should be set up to assist the Commission in the implementation of this Directive and in

particular when decisions on Community co-financing are taken;

Whereas provision should be made for supplementary measures governing the reintroduction of certain native species of fauna and flora and the possible introduction of non-native species;

Whereas education and general information relating to the objectives of this Directive are essential for ensuring its effective implementation,

HAS ADOPTED THIS DIRECTIVE:

Definitions

Article 1

For the purpose of this Directive:

- (a) *conservation* means a series of measures required to maintain or restore the natural habitats and the populations of species of wild fauna and flora at a favourable status as defined in (e) and (i);
- (b) *natural habitats* means terrestrial or aquatic areas distinguished by geographic, abiotic and biotic features, whether entirely natural or semi-natural;
- (c) *natural habitat types of Community interest* means those which, within the territory referred to in Article 2:
 - (i) are in danger of disappearance in their natural range;
 - or
 - (ii) have a small natural range following their regression or by reason of their intrinsically restricted area;
 - or
 - (iii) present outstanding examples of typical characteristics of one or more of the five following biogeographical regions: Alpine, Atlantic, Continental, Macaronesian and Mediterranean.

Such habitat types are listed or may be listed in Annex I;

- (d) *priority natural habitat types* means natural habitat types in danger of disappearance, which are present on the territory referred to in Article 2 and for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2; these priority natural habitat types are indicated by an asterisk (*) in Annex I;
- (e) *conservation status of a natural habitat* means the sum of the influences acting on a natural habitat and its

typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within the territory referred to in Article 2.

The conservative status of a natural habitat will be taken as 'favourable' when:

- its natural range and areas it covers within that range are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable as defined in (i);

(f) *habitat of a species* means an environment defined by specific abiotic and biotic factors, in which the species lives at any stage of its biological cycle;

(g) *species of Community interest* means species which, within the territory referred to in Article 2, are:

- (i) endangered, except those species whose natural range is marginal in that territory and which are not endangered or vulnerable in the western palearctic region; or
- (ii) vulnerable, i.e. believed likely to move into the endangered category in the near future if the causal factors continue operating; or
- (iii) rare, i.e. with small populations that are not at present endangered or vulnerable, but are at risk. The species are located within restricted geographical areas or are thinly scattered over a more extensive range; or
- (iv) endemic and requiring particular attention by reason of the specific nature of their habitat and/or the potential impact of their exploitation on their habitat and/or the potential impact of their exploitation on their conservation status.

Such species are listed or may be listed in Annex II and/or Annex IV or V;

(h) *priority species* means species referred to in (g) (i) for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2; these priority species are indicated by an asterisk (*) in Annex II;

(i) *conservation status of a species* means the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations within the territory referred to in Article 2;

The *conservation status* will be taken as 'favourable' when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis;

(j) *site* means a geographically defined area whose extent is clearly delineated;

(k) *site of Community importance* means a site which, in the biogeographical region or regions to which it belongs, contributes significantly to the maintenance or restoration at a favourable conservation status of a natural habitat type in Annex I or of a species in Annex II and may also contribute significantly to the coherence of Natura 2000 referred to in Article 3, and/or contributes significantly to the maintenance of biological diversity within the biogeographic region or regions concerned.

For animal species ranging over wide areas, sites of Community importance shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction;

(l) *special area of conservation* means a site of Community importance designated by the Member States through a statutory, administrative and/or contractual act where the necessary conservation measures are applied for the maintenance or restoration, at a favourable conservation status, of the natural habitats and/or the populations of the species for which the site is designated;

(m) *specimen* means any animal or plant, whether alive or dead, of the species listed in Annex IV and Annex V, any part or derivative thereof, as well as any other goods which appear, from an accompanying document, the packaging or a mark or label, or from any other circumstances, to be parts or derivatives of animals or plants of those species;

(n) *the committee* means the committee set up pursuant to Article 20.

Article 2

1. The aim of this Directive shall be to contribute towards ensuring bio-diversity through the conservation of natural

habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies.

2. Measures taken pursuant to this Directive shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest.

3. Measures taken pursuant to this Directive shall take account of economic, social and cultural requirements and regional and local characteristics.

Conservation of natural habitats and habitats of species

Article 3

1. A coherent European ecological network of special areas of conservation shall be set up under the title Natura 2000. This network, composed of sites hosting the natural habitat types listed in Annex I and habitats of the species listed in Annex II, shall enable the natural habitat types and the species' habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status in their natural range.

The Natura 2000 network shall include the special protection areas classified by the Member States pursuant to Directive 79/409/EEC.

2. Each Member State shall contribute to the creation of Natura 2000 in proportion to the representation within its territory of the natural habitat types and the habitats of species referred to in paragraph 1. To that effect each Member State shall designate, in accordance with Article 4, sites as special areas of conservation taking account of the objectives set out in paragraph 1.

3. Where they consider it necessary, Member States shall endeavour to improve the ecological coherence of Natura 2000 by maintaining, and where appropriate developing, features of the landscape which are of major importance for wild fauna and flora, as referred to in Article 10.

Article 4

1. On the basis of the criteria set out in Annex III (Stage 1) and relevant scientific information, each Member State shall propose a list of sites indicating which natural habitat types in Annex I and which species in Annex II that are native to its territory the sites host. For animal species ranging over wide areas these sites shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction. For aquatic species which range over wide areas, such sites will be

proposed only where there is a clearly identifiable area representing the physical and biological factors essential to their life and reproduction. Where appropriate, Member States shall propose adaptation of the list in the light of the results of the surveillance referred to in Article 11.

The list shall be transmitted to the Commission, within three years of the notification of this Directive, together with information on each site. That information shall include a map of the site, its name, location, extent and the data resulting from application of the criteria specified in Annex III (Stage 1) provided in a format established by the Commission in accordance with the procedure laid down in Article 21.

2. On the basis of the criteria set out in Annex III (Stage 2) and in the framework both of each of the five biogeographical regions referred to in Article 1 (c) (iii) and of the whole of the territory referred to in Article 2 (1), the Commission shall establish, in agreement with each Member State, a draft list of sites of Community importance drawn from the Member States' lists identifying those which lost one or more priority natural habitat types or priority species.

Member States whose sites hosting one or more priority natural habitat types and priority species represent more than 5% of their national territory may, in agreement with the Commission, request that the criteria listed in Annex III (Stage 2) be applied more flexibly in selecting all the sites of Community importance in their territory.

The list of sites selected as sites of Community importance, identifying those which host one or more priority natural habitat types or priority species, shall be adopted by the Commission in accordance with the procedure laid down in Article 21.

3. The list referred to in paragraph 2 shall be established within six years of the notification of this Directive.

4. Once a site of Community importance has been adopted in accordance with the procedure laid down in paragraph 2, the Member State concerned shall designate that site as a special area of conservation as soon as possible and within six years at most, establishing priorities in the light of the importance of the sites for the maintenance or restoration, at a favourable conservation status, of a natural habitat type in Annex I or a species in Annex II and for the coherence of Natura 2000, and in the light of the threats of degradation or destruction to which those sites are exposed.

5. As soon as a site is placed on the list referred to in the third subparagraph of paragraph 2 it shall be subject to Article 6 (2), (3) and (4).

Article 5

1. In exceptional cases where the Commission finds that a national list as referred to in Article 4 (1) fails to mention a site hosting a priority natural habitat type or priority species which, on the basis of relevant and reliable scientific information, it considers to be essential for the maintenance of that priority natural habitat type or for the survival of that priority species, a bilateral consultation procedure shall be initiated between that Member State and the Commission for the purpose of comparing the scientific data used by each.

2. If, on expiry of a consultation period not exceeding six months, the dispute remains unresolved, the Commission shall forward to the Council a proposal relating to the selection of the site as a site of Community importance.

3. The Council, acting unanimously, shall take a decision within three months of the date of referral.

4. During the consultation period and pending a Council decision, the site concerned shall be subject to Article 6 (2).

Article 6

1. For special areas of conservation, Member States shall establish the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.

2. Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.

3. Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only

after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public

4. If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.

Article 7

Obligations arising under Article 6 (2), (3) and (4) of this Directive shall replace any obligations arising under the first sentence of Article 4 (4) of Directive 79/409/EEC in respect of areas classified pursuant to Article 4 (1) or similarly recognized under Article 4 (2) thereof, as from the date of implementation of this Directive or the date of classification or recognition by a Member State under Directive 79/409/EEC, where the latter date is later.

Article 8

1. In parallel with their proposals for sites eligible for designation as special areas of conservation, hosting priority natural habitat types and/or priority species, the Member States shall send, as appropriate, to the Commission their estimates relating to the Community co-financing which they consider necessary to allow them to meet their obligations pursuant to Article 6 (1).

2. In agreement with each of the Member States concerned, the Commission shall identify, for sites of Community importance for which co-financing is sought, those measures essential for the maintenance or re-establishment at a favourable conservation status of the priority natural habitat types and priority species on the sites concerned, as well as the total costs arising from those measures.

3. The Commission, in agreement with the Member States concerned, shall assess the financing, including co-financing, required for the operation of the measures referred to in paragraph 2, taking into account, amongst other things, the concentration on the Member State's territory of priority natural habitat types and/or priority species and the relative burdens which the required measures entail.

4. According to the assessment referred to in paragraphs 2 and 3, the Commission shall adopt, having regard to the available sources of funding under the relevant Community instruments and according to the procedure set out in Article 21, a prioritized action framework of measures involving co-financing to be taken when the site has been designated under Article 4 (4).

5. The measures which have not been retained in the action framework for lack of sufficient resources, as well as those included in the abovementioned action framework which have not received the necessary co-financing or have only been partially co-financed, shall be reconsidered in accordance with the procedure set out in Article 21, in the context of the two-yearly review of the action framework and may, in the meantime, be postponed by the Member States pending such review. This review shall take into account, as appropriate, the new situation of the site concerned.

6. In areas where the measures dependent on co-financing are postponed, Member States shall refrain from any new measures likely to result in deterioration of those areas.

Article 9

The Commission, acting in accordance with the procedure laid down in Article 21, shall periodically review the contribution of Natura 2000 towards achievement of the objectives set out in Article 2 and 3. In this context, a special area of conservation may be considered for declassification where this is warranted by natural developments noted as a result of the surveillance provided for in Article 11.

Article 10

Member States shall endeavour, where they consider it necessary, in their land-use planning and development policies and, in particular, with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora.

Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems for marking field boundaries) or their function as stepping stones (such as ponds or small woods),

are essential for the migration, dispersal and genetic exchange of wild species.

Article 11

Member States shall undertake surveillance of the conservation status of the natural habitats and species referred to in Article 2 with particular regard to priority natural habitat types and priority species.

Protection of species

Article 12

1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:

- (a) all forms of deliberate capture or killing of specimens of these species in the wild;
- (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
- (c) deliberate destruction or taking of eggs from the wild;
- (d) deterioration or destruction of breeding sites or resting places.

2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:

- (a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;
- (b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

Article 14

1. If, in the light of the surveillance provided for in Article 11, Member States deem it necessary, they shall take measures to ensure that the taking in the wild of specimens of species of wild fauna and flora listed in Annex V as well as their exploitation is compatible with their being maintained at a favourable conservation status.

2. Where such measures are deemed necessary, they shall include continuation of the surveillance provided for in Article 11. Such measures may also include in particular:

- regulations regarding access to certain property,
- temporary or local prohibition of the taking of specimens in the wild and exploitation of certain populations,
- regulation of the periods and/or methods of taking specimens,
- application, when specimens are taken, of hunting and fishing rules which take account of the conservation of such populations,
- establishment of a system of licences for taking specimens or of quotas,
- regulation of the purchase, sale, offering for sale, keeping for sale or transport for sale of specimens,
- breeding in captivity of animal species as well as artificial propagation of plant species, under strictly controlled conditions, with a view to reducing the taking of specimens of the wild,
- assessment of the effect of the measures adopted.

Article 15

In respect of the capture or killing of species of wild fauna listed in Annex V (a) and in cases where, in accordance with

Article 16, derogations are applied to the taking, capture or killing of species listed in Annex IV (a), Member States shall prohibit the use of all indiscriminate means capable of causing local disappearance of, or serious disturbance to, populations of such species, and in particular:

- (a) use of the means of capture and killing listed in Annex VI (a);
- (b) any form of capture and killing from the modes of transport referred to in Annex VI (b).

Article 16

1. Provided that there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range, Member States may derogate from the provisions of Articles 12, 13, 14 and 15 (a) and (b):

- (a) in the interest of protecting wild fauna and flora and conserving natural habitats;
- (b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property;
- (c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- (d) for the purpose of research and education, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants;
- (e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.

2. Member States shall forward to the Commission every two years a report in accordance with the format established by the Committee on the derogations applied under paragraph 1. The Commission shall give its opinion on these derogations within a maximum time limit of 12 months following receipt of the report and shall give an account to the Committee.

3. The reports shall specify:

- (a) the species which are subject to the derogations and the reason for the derogation, including the nature of the risk, with, if appropriate, a reference to alternatives rejected and scientific data used;

- (b) the means, devices or methods authorized for the capture or killing of animal species and the reasons for their use;
- (c) the circumstances of when and where such derogations are granted;
- (d) the authority empowered to declare and check that the required conditions obtain and to decide what means, devices or methods may be used, within what limits and by what agencies, and which persons are to carry but the task;
- (e) the supervisory measures used and the results obtained.

Information

Article 17

1. Every six years from the date of expiry of the period laid down in Article 23, Member States shall draw up a report on the implementation of the measures taken under this Directive. This report shall include in particular information concerning the conservation measures referred to in Article 6 (1) as well as evaluation of the impact of those measures on the conservation status of the natural habitat types of Annex I and the species in Annex II and the main results of the surveillance referred to in Article 11. The report, in accordance with the format established by the committee, shall be forwarded to the Commission and made accessible to the public.

2. The Commission shall prepare a composite report based on the reports referred to in paragraph 1. This report shall include an appropriate evaluation of the progress achieved and, in particular, of the contribution of Natura 2000 to the achievement of the objectives set out in Article 3. A draft of the part of the report covering the information supplied by a Member State shall be forwarded to the Member State in question for verification. After submission to the committee, the final version of the report shall be published by the Commission, not later than two years after receipt of the reports referred to in paragraph 1, and shall be forwarded to the Member States, the European Parliament, the Council and the Economic and Social Committee.

3. Member States may mark areas designated under this Directive by means of Community notices designed for that purpose by the committee.

Research

Article 18

1. Member States and the Commission shall encourage the necessary research and scientific work having regard to

the objectives set out in Article 2 and the obligation referred to in Article 11. They shall exchange information for the purposes of proper coordination of research carried out at Member State and at Community level.

2. Particular attention shall be paid to scientific work necessary for the implementation of Articles 4 and 10, and transboundary cooperative research between Member States shall be encouraged.

Procedure for amending the Annexes

Article 19

Such amendments as are necessary for adapting Annexes I, II, III, V and VI to technical and scientific progress shall be adopted by the Council acting by qualified majority on a proposal from the Commission.

Such amendments as are necessary for adapting Annex IV to technical and scientific progress shall be adopted by the Council acting unanimously on a proposal from the Commission.

Committee

Article 20

The Commission shall be assisted by a committee consisting of representatives of the Member States and chaired by a representative of the Commission.

Article 21

1. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

2. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a

proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Supplementary provisions

Article 22

In implementing the provisions of this Directive, Member States shall:

- (a) study the desirability of re-introducing species in Annex IV that are native to their territory where this might contribute to their conservation, provided that an investigation, also taking into account experience in other Member States or elsewhere, has established that such re-introduction contributes effectively to re-establishing these species at a favourable conservation status and that it takes place only after proper consultation of the public concerned;
- (b) ensure that the deliberate introduction into the wild of any species which is not native to their territory is regulated so as not to prejudice natural habitats within their natural range or the wild native fauna and flora and, if they consider it necessary, prohibit such introduction. The results of the assessment undertaken shall be forwarded to the committee for information;
- (c) promote education and general information on the need to protect species of wild fauna and flora and to conserve their habitats and natural habitats.

Final provisions

Article 23

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within two years of its notification. They shall forthwith inform the Commission thereof.

2. When Member States adopt such measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

3. Member States shall communicate to the Commission the main provisions of national law which they adopt in the field covered by this Directive.

Article 24

This Directive is addressed to the Member States.

Done at Brussels, 21 May 1992.

For the Council
The President
Arlindo MARQUES CUNHA

ANNEX I

NATURAL HABITAT TYPES OF COMMUNITY INTEREST WHOSE CONSERVATION REQUIRES THE DESIGNATION OF SPECIAL AREAS OF CONSERVATION

Interpretation

Code: The hierarchical classification of habitats produced through the Corine programme ⁽¹⁾ (Corine biotopes project) is the reference work for this Annex. Most types of natural habitat quoted are accompanied by the corresponding Corine code listed in the Technical Handbook, Volume 1, pp. 73—109, Corine/Biotope/89/2.2, 19 May 1988, partially updated 14 February 1989.

The sign 'x' combining codes indicates associated habitat types, e.g. 35.2 x 64.1 — Open grassland with *Corynephorus* and *Agrostis* (35.2), in combination with continental dunes (64.1).

The sign '**' indicates priority habitat types.

COSTAL AND HALOPHYTIC HABITATS

Open sea and tidal areas

- | | |
|-------|--|
| 11.25 | Sandbanks which are slightly covered by sea water all the time |
| 11.34 | *Posidonia beds |
| 13.2 | Estuaries |
| 14 | Mudflats and sandflats not covered by seawater at low tide |
| 21 | *Lagoons |
| — | Large shallow inlets and bays |
| — | Reefs |
| — | Marine 'columns' in shallow water made by leaking gases |

Sea cliffs and shingle or stony beaches

- | | |
|-------|---|
| 17.2 | Annual vegetation of drift lines |
| 17.3 | Perennial vegetation of stony banks |
| 18.21 | Vegetated sea cliffs of the Atlantic and Baltic coasts |
| 18.22 | Vegetated sea cliffs of the Mediterranean coasts (with endemic <i>Limonium spp.</i>) |
| 18.23 | Vegetated sea cliffs of the Macaronesian coasts (flora endemic to these coasts) |

Atlantic and continental salt marshes and salt meadows

- | | |
|-------|---|
| 15.11 | <i>Salicornia</i> and other annuals colonizing mud and sand |
| 15.12 | <i>Spartina</i> swards (<i>Spartinion</i>) |
| 15.13 | Atlantic salt meadows (<i>Glauco-Puccinellietalia</i>) |
| 15.14 | *Continental salt meadows (<i>Puccinellietalia distantis</i>) |

Mediterranean and thermo-Atlantic salt marshes and salt meadows

- | | |
|-------|---|
| 15.15 | Mediterranean salt meadows (<i>Juncetalia maritimi</i>) |
| 15.16 | Mediterranean and thermo-Atlantic halophilous scrubs (<i>Arthrocnemetalia fruticosae</i>) |
| 15.17 | Iberia halo-nitrophilous scrubs (<i>Pegano-Salsoletea</i>) |

Salt and gypsum continental steppes

- | | |
|-------|--|
| 15.18 | *Salt steppes (<i>Limonietalia</i>) |
| 15.19 | *Gypsum steppes (<i>Gypsophiletalia</i>) |

⁽¹⁾ Corine: Council Decision 85/338/EEC of 27 June 1985 (OJ No L 176, 6. 7. 1985, p. 14).

COASTAL SAND DUNES AND CONTINENTAL DUNES

Sea dunes of the Atlantic, North Sea and Baltic coasts

- 16.211 Embryonic shifting dunes
 16.212 Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes)
 16.221 to 16.227 *Fixed dunes with herbaceous vegetation (grey dunes):
 16.221 *Galio-Koelerion albescentis*
 16.222 *Euphorbio-Helichryson*
 16.223 *Crucianellion maritimae*
 16.224 *Euphorbia terracina*
 16.225 *Mesobromion*
 16.226 *Trifolio-Gerantietea sanguinei*, *Galio maritimi-Geranium sanguinei*
 16.227 *Thero-Airion*, *Botrychio-Polygaletum*, *Tuberarion guttatae*
 16.23 *Decalcified fixed dunes with *Empetrum nigrum*
 16.24 Eu-atlantic decalcified fixed dunes (*Calluno-Ulicetea*)
 16.25 Dunes with *Hyppophae rhamnoides*
 16.26 Dunes with *Salix arenaria*
 16.29 Wooded dunes of the Atlantic coast
 16.31 to 16.35 Humid dune slacks
 1.A Machairs (* in machairs in Ireland)

Sea dunes of the Mediterranean coast

- 16.223 *Crucianellion maritimae* fixed beach dunes
 16.224 Dunes with *Euphorbia terracina*
 16.228 *Malcolmietalia* dune grasslands
 16.229 *Brachypodietalia* dune grasslands with annuals
 16.27 *Dune juniper thickets (*Juniperus sp.*)
 16.28 Dune sclerophyllous scrubs (*Cisto-Lysenhussetalia*)
 16.29 x 42.8 *Wooded dunes with *Pinus pinea* and/or *Pinus pinaster*

Continental dunes, old and decalcified

- 64.1 x 31.223 Dry sandy heaths with *Calluna* and *Genista*
 64.1 x 31.227 Dry sandy heaths with *Calluna* and *Empetrum nigrum*
 64.1 x 35.2 Open grassland with *Corynephorus* and *Agrostis* of continental dunes

FRESHWATER HABITATS

Standing water

- 22.11 x 22.31 Oligotrophic waters containing very few minerals of Atlantic sandy plains with amphibious vegetation: *Lobelia*, *Littorelia* and *Isoetes*
 22.11 x 22.34 Oligotrophic waters containing very few minerals of West Mediterranean sandy plains with *Isoetes*
 22.12 x (22.31 and 22.32) Oligotrophic waters in medio-European and perialpine area with amphibious vegetation: *Littorelia* or *Isoetes* or annual vegetation on exposed banks (*Nanocyperetalia*)
 22.12 x 22.44 Hard oligo-mesotrophic waters with benthic vegetation of chara formations
 22.13 Natural eutrophic lakes with *Magnopotamion* or *Hydrocharition*-type vegetation
 22.14 Dystrophic lakes
 22.34 *Mediterranean temporary ponds
 — *Turloughs (Ireland)

Running water

Sections of water courses with natural or semi-natural dynamics (minor, average and major beds) where the water quality shows no significant deterioration

- 24.221 and 24.222 Alpine rivers and the herbaceous vegetation along their banks
 24.223 Alpine rivers and their ligneous vegetation with *Myricaria germanica*
 24.224 Alpine rivers and their ligneous vegetation with *Salix elaeagnos*

24.225	Constantly flowing Mediterranean rivers with <i>Glaucium flavum</i>
24.4	Floating vegetation of ranunculus of plane, submountainous rivers
24.52	<i>Chenopodietum rubri</i> of submountainous rivers
24.53	Constantly flowing Mediterranean rivers: <i>Paspalo-Agrostidion</i> and hanging curtains of <i>Salix</i> and <i>Populus alba</i>
—	Intermittently flowing Mediterranean rivers

TEMPERATE HEATH AND SCRUB

31.11	Northern Atlantic wet heaths with <i>Erica tetralix</i>
31.12	*Southern Atlantic wet heaths with <i>Erica ciliaris</i> and <i>Erica tetralix</i>
31.2	*Dry heaths (all subtypes)
31.234	*Dry coastal heaths with <i>Erica vagans</i> and <i>Ulex maritimus</i>
31.3	*Endemic macaronesian dry heaths
31.4	Alpine and subalpine heaths
31.5	*Scrub with <i>Pinus mugo</i> and <i>Rhododendron hirsutum</i> (<i>Mugo-Rhododendretum hirsuti</i>)
31.622	Sub-Arctic willow scrub
31.7	Endemic oro-Mediterranean heaths with gorse

SCLEROPHYLLOUS SCRUB (MATORRAL)

Sub-Mediterranean and temperate

31.82	Stable <i>Buxus sempervirens</i> formations on calcareous rock slopes (<i>Berberidion p.</i>)
31.842	Mountain <i>Genista purgans</i> formations
31.88	<i>Juniperus communis</i> formations on calcareous heaths or grasslands
31.89	* <i>Cistus palhinhae</i> formations on maritime wet heaths (<i>Junipero-Cistetum palhinhae</i>)

Mediterranean arborescent matorral

32.131 to 32.135	Juniper formations
32.17	*Matorral with <i>Zyziphus</i>
32.18	*Matorral with <i>Laurus nobilis</i>

Thermo-Mediterranean and pre-steppe brush

32.216	Laurel thickets
32.217	Low formations of euphorbia close to cliffs
32.22 bis 32.26	All types

Phrygana

33.1	<i>Astragalo-Plantagnetum subulatae phrygana</i>
33.3	<i>Sarcopoterium spinosum phrygana</i>
33.4	Cretan formations (<i>Euphorbieto-Verbascion</i>)

NATURAL AND SEMI-NATURAL GRASSLAND FORMATIONS

Natural grasslands

34.11	*Karstic calcareous grasslands (<i>Alyso-Sedion albi</i>)
34.12	*Xeric sand calcareous grasslands (<i>Koelerion glaucae</i>)
34.2	Calaminarian grasslands
36.314	Siliceous Pyrenean grasslands with <i>Festuca eskia</i>
36.32	Siliceous alpine and boreal grass
36.36	Siliceous <i>Festuca inaequalis</i> Iberian grasslands
36.41 bis 36.45	Alpine calcareous grasslands
36.5	Macaronesian mountain grasslands

Semi-natural dry grasslands and scrubland facies

- 34.31 to 34.34 On calcareous substrates (*Festuco Brometalia*)
(* important orchid sites)
- 34.5 *Pseudo-steppe with grasses and annuals (*Thero-Brachypodietea*)
- 35.1 *Species-rich *Nardus* grasslands, on siliceous substrates in mountain areas (and
submountain areas, in continental Europe)

Sclerophyllous grazed forests (dehesas)

- 32.11 With *Quercus suber* and/or *Quercus ilex*

Semi-natural tall-herb humid meadows

- 37.31 Molinia meadows on chalk and clay (*Eu-Molinion*)
- 37.4 Mediterranean tall-herb and rush meadows (*Molinio-Holosclioenion*)
- 37.7 and 37.8 Eutrophic tall herbs
- *Cnidion venosae* meadows liable to flooding

Mesophile grasslands

- 38.2 Lowland hay meadows (*Alopecurus pratensis*, *Sanguisorba officinalis*)
- 38.3 Mountain hay meadows (British types with *Geranium sylvaticum*)

RAISED BOGS AND MIRES AND FENS**Sphagnum acid bogs**

- 51.1 *Active raised bogs
- 51.2 Degraded raised bogs
(still capable of natural regeneration)
- 52.1 and 52.2 Blanket bog (* active only)
- 54.5 Transition mires and quaking bogs
- 54.6 Depressions on peat substrates (*Rhynchosporion*)

Calcareous fens

- 53.3 *Calcareous fens with *Cladium mariscus* and *Carex davalliana*
- 54.12 *Petrifying springs with tufa formation (*Cratoneurion*)
- 54.2 Alkaline fens
- 54.3 *Alpine pioneer formations of *Caricion bicoloris-atrofuscae*

ROCKY HABITATS AND CAVES**Scree**

- 61.1 Siliceous
- 61.2 Eutric
- 61.3 Western Mediterranean and alpine thermophilous
- 61.4 Balkan
- 61.5 Medio-European siliceous
- 61.6 *Medio-European calcareous

Chasmophytic vegetation on rocky slopes

- 62.1 and 62.1A Calcareous sub-types
- 62.2 Silicolous sub-types
- 62.3 Pioneer vegetation of rock surfaces
- 62.4 *Limestone pavements

Other rocky habitats

- 65 Caves not open to the public
- Fields of lava and natural excavations

- Submerged or partly submerged sea caves
- Permanent glaciers

FORESTS

(Sub)natural woodland vegetation comprising native species forming forests of tall trees, with typical undergrowth, and meeting the following criteria: rare or residual, and/or hosting species of Community interest

Forests of temperate Europe

- 41.11 *Luzulo-Fagetum* beech forests
- 41.12 Beech forests with *Ilex* and *Taxus*, rich in epiphytes (*Ilici-Fagion*)
- 41.13 *Asperulo-Fagetum* beech forests
- 41.15 Subalpine beech woods with *Acer* and *Rumex arifolius*
- 41.16 Calcareous beech forest (*Cephalanthero-Fagion*)
- 41.24 *Stellario-Carpinetum* oak-hornbeam forests
- 41.26 *Galio-Carpinetum* oak-hornbeam forests
- 41.4 **Tilio-Acerion* ravine forests
- 41.51 Old acidophilous oak woods with *Quercus robur* on sandy plains
- 41.53 Old oak woods with *Ilex* and *Blechnum* in the British Isles
- 41.86 *Fraxinus angustifolia* woods
- 42.51 *Caledonian forest
- 44.A1 to 44.A4 *Bog woodland
- 44.3 *Residual alluvial forests (*Alnion glutinoso-incanae*)
- 44.4 Mixed oak-elm-ash forests of great rivers

Mediterranean deciduous forests

- 41.181 *Apennine beech forests with *Taxus* and *Ilex*
- 41.184 *Apennine beech forests with *Abies alba* and beech forests with *Abies nebrodensis*
- 41.6 Galicio-Portuguese oak woods with *Quercus robur* and *Quercus pyrenaica*
- 41.77 *Quercus faginea* woods (Iberian Peninsula)
- 41.85 *Quercus trojana* woods (Italy and Greece)
- 41.9 Chestnut woods
- 41.1A x 42.17 Hellenic beech forests with *Abies borisii-regis*
- 41.1B *Quercus frainetto* woods
- 42.A1 Cypress forests (*Acero-Cupression*)
- 44.17 *Salix alba* and *Populus alba* galleries
- 44.52 Riparian formations on intermittent Mediterranean water courses with *Rhododendron ponticum*, *Salix* and others
- 44.7 Oriental plane woods (*Platanion orientalis*)
- 44.8 Thermo-Mediterranean riparian galleries (*Nerio-Tamariceteae*) and south-west Iberian Peninsula riparian galleries (*Securinegion tinctoriae*)

Mediterranean sclerophyllous forests

- 41.7C Cretan *Quercus brachyphylla* forests
- 45.1 *Olea* and *Ceratonia* forests
- 45.2 *Quercus suber* forests
- 45.3 *Quercus ilex* forests
- 45.5 *Quercus macrolepis* forests
- 45.61 to 45.63 *Macaronesian laurel forests (*Laurus*, *Ocotea*)
- 45.7 *Palm groves of *Phoenix*
- 45.8 Forests of *Ilex aquifolium*

Alpine and subalpine coniferous forests

- 42.21 to 42.23 Acidophilous forests (*Vaccinio-Piceetea*)
- 42.31 and 42.32 Alpine forests with larch and *Pinus cembra*
- 42.4 *Pinus uncinata* forests (* on gypsum or limestone)

Mediterranean mountainous coniferous forests

- 42.14 *Appenine *Abies alba* and *Picea excelsa* forests
- 42.19 *Abies pinsapo* forests
- 42.61 to 42.66 *Mediterranean pine forests with endemic black pines
- 42.8 Mediterranean pine forests with endemic Mesogean pines, including *Pinus mugo* and *Pinus leucodermis*
- 42.9 Macaronesian pine forests (endemic)
- 42.A2 to 42.A5 and 42.A8 *Endemic Mediterranean forests with *Juniperus* spp.
- 42.A6 **Tetraclinis articulata* forests (Andalusia)
- 42.A71 to 42.A73 **Taxus baccata* woods

ANNEX II

ANIMAL AND PLANT SPECIES OF COMMUNITY INTEREST WHOSE CONSERVATION REQUIRES
THE DESIGNATION OF SPECIAL AREAS OF CONSERVATION

Interpretation

(a) Annex II follows on from Annex I for the establishment of a consistent network of special areas of conservation.

(b) The species listed in this Annex are indicated:

- by the name of the species or subspecies, or
- by the body of species belonging to a higher taxon or to a designated part of that taxon.

The abbreviation 'spp.' after the name of a family or genus designates all the species belonging to that family or genus.

(c) *Symbols*

An asterisk (*) before the name of a species indicates that the species is a priority species.

Most species listed in this Annex are also listed in Annex IV.

Where a species appears in this Annex but does not appear in either Annex IV or Annex V, the species name is followed by the symbol (o); where a species which appears in this Annex also appears in Annex V but does not appear in Annex IV, its name is followed by the symbol (V).

(a) ANIMALS

VERTEBRATES

MAMMALS

INSECTIVORA

Talpidae

Galemys pyrenaicus

CHIROPTERA

Rhinolophidae

Rhinolophus blasii
Rhinolophus euryale
Rhinolophus ferrumequinum
Rhinolophus hipposideros
Rhinolophus mehelyi

Vespertilionidae

Barbastella barbastellus
Miniopterus schreibersi
Myotis bechsteini
Myotis blythi
Myotis capaccinii
Myotis dasycneme
Myotis emarginatus
Myotis myotis

RODENTIA

Sciuridae

Spermophilus citellus

Castoridae

Castor fiber

Microtidae

Microtus cabreræ
 **Microtus oeconomus arenicola*

CARNIVORA*Canidae*

- **Canis lupus* (Spanish populations: only those south of the Duero; Greek populations: only those south of the 39th parallel)

Ursidae

- **Ursus arctos*

Mustelidae

- Lutra lutra*
- Mustela lutreola*

Felidae

- Lynx lynx*
- **Lynx pardina*

Phocidae

- Halichoerus grypus* (V)
- **Monachus monachus*
- Phoca vitulina* (V)

ARTIODACTYLA*Cervidae*

- **Cervus elaphus corsicanus*

Bovidae

- Capra aegagrus* (natural populations)
- **Capra pyrenaica pyrenaica*
- Ovis ammon musimon* (natural populations — Corsica and Sardinia)
- Rupicapra rupicapra balcanica*
- **Rupicapra ornata*

CETACEA

- Tursiops truncatus*
- Phocoena phocoena*

REPTILES**TESTUDINATA***Testudinidae*

- Testudo hermanni*
- Testudo graeca*
- Testudo marginata*

Cheloniidae

- **Caretta caretta*

Emydidae

- Emys orbicularis*
- Mauremys caspica*
- Mauremys leprosa*

SAURIA*Lacertidae*

- Lacerta monticola*
- Lacerta schreiberi*
- Gallotia galloti insulanagae*
- **Gallotia simonyi*
- Podarcis lilfordi*
- Podarcis pityusensis*

Scincidae

- Chalcides occidentalis*

Gekkonidae

- Phyllodactylus europaeus*

OPHIDIA*Colubridae*

- Elaphe quatuorlineata*
- Elaphe situla*

Viperidae

- **Vipera schweizeri*
- Vipera ursinii*

AMPHIBIANS

CAUDATA

Salamandridae

- Chioglossa lusitanica*
- Mertensiella luschani*
- **Salamandra salamandra aurorae*
- Salamandrina terdigitata*
- Triturus cristatus*

Proteidae

- Proteus anguinus*

Plethodontidae

- Speleomantes ambrosii*
- Speleomantes flavus*
- Speleomantes genei*
- Speleomantes imperialis*
- Speleomantes supramontes*

ANURA

Discoglossidae

- Bombina bombina*
- Bombina variegata*
- Discoglossus jeanneae*
- Discoglossus montalentii*
- Discoglossus sardus*
- **Alytes muletensis*

Ranidae

- Rana latastei*

Pelobatidae

- **Pelobates fuscus insubricus*

FISH

PETROMYZONIFORMES

Petromyzonidae

- Eudontomyzon* spp. (o)
- Lampetra fluviatilis* (V)
- Lampetra planeri* (o)
- Lethenteron zanandrai* (V)
- Petromyzon marinus* (o)

ACIPENSERIFORMES

Acipenseridae

- **Acipenser naccarii*
- **Acipenser sturio*

ATHERINIFORMES

Cyprinodontidae

- Aphanius iberus* (o)
- Aphanius fasciatus* (o)
- **Valencia hispanica*

SALMONIFORMES

Salmonidae

- Hucho hucho* (natural populations) (V)
- Salmo salar* (only in fresh water) (V)
- Salmo marmoradus* (o)
- Salmo macrostigma* (o)

Coregonidae

- **Coregonus oxyrhynchus* (anadromous populations in certain sectors of the North Sea)

CYPRINIFORMES

Cyprinidae

- Alburnus vulturius* (o)
- Alburnus albidus* (o)
- Anaecypris hispanica*
- Aspius aspius* (o)
- Barbus plebejus* (V)
- Barbus meridionalis* (V)
- Barbus capito* (V)
- Barbus comiza* (V)
- Chalcalburnus chalcoides* (o)
- Chondrostoma soetta* (o)
- Chondrostoma polylepis* (o)
- Chondrostoma genei* (o)
- Chondrostoma lusitanicum* (o)
- Chondrostoma toxostoma* (o)
- Gobio albipinnatus* (o)
- Gobio uranoscopus* (o)
- Iberocypris palaciosi* (o)
- **Ladigesocypris ghigi* (o)
- Leuciscus lucomonis* (o)
- Leuciscus souffia* (o)
- Phoxinellus* spp. (o)
- Rutilus pigus* (o)
- Rutilus rubilio* (o)
- Rutilus arcasii* (o)
- Rutilus macrolepidotus* (o)
- Rutilus lemmingii* (o)
- Rutilus friesii meidingeri* (o)
- Rutilus alburnoides* (o)
- Rhodeus sericeus amarus* (o)
- Scardinius graecus* (o)

Cobitidae

- Cobitis conspersa* (o)
- Cobitis larvata* (o)
- Cobitis trichonica* (o)
- Cobitis taenia* (o)
- Misgurnis fossilis* (o)
- Sabanejewia aurata* (o)

PERCIFORMES

Percidae

- Gymnocephalus schraetzer* (V)
- Zingel* spp. [(o) except *Zingel asper* and *Zingel zingel* (V)]

Gobiidae

- Pomatoschistus canestrini* (o)
- Padogobius panizzai* (o)
- Padogobius nigricans* (o)

CLUPEIFORMES

Clupeidae

- Alosa* spp. (V)

SCORPAENIFORMES

Cottidae

- Cottus ferruginosus* (o)
- Cottus petiti* (o)
- Cottus gobio* (o)

SILURIFORMES

Siluridae

- Silurus aristotelis* (V)

INVERTEBRATES

ARTHROPODS

CRUSTACEA

Decapoda

Austropotamobius pallipes (V)

INSECTA

Coleoptera

Buprestis splendens
*Carabus olympiae
Cerambyx cerdo
Cucujus cinnaberinus
Dytiscus latissimus
Graphoderus bilineatus
Limonicus violaceus (o)
Lucanus cervus (o)
Morimus funereus (o)
*Osmoderma eremita
*Rosalia alpina

Lepidoptera

*Callimorpha quadripunctata (o)
Coenonympha oedippus
Erebia calcaria
Erebia christi
Eriogaster catax
Euphydryas aurinia (o)
Graellsia isabellae (V)
Hypodryas maturna
Lycæna dispar
Maculinea nausithous
Maculinea teleius
Melanargia arge
Papilio hospiton
Plebicula golgus

Mantodea

Apteromantis aptera

Odonata

Coenagrion hylas (o)
Coenagrion mercuriale (o)
Cordulegaster trinacriae
Gomphus graslinii
Leucorrhina pectoralis
Lindenia tetraphylla
Macromia splendens
Ophiogomphus cecilia
Oxygastra curtisii

Orthoptera

Baetica ustulata

MOLLUSCS

GASTROPODA

Caseolus calculus
Caseolus commixta
Caseolus sphaerula
Discula leacockiana
Discula tabellata
Discus defloratus
Discus gueriniianus
Elona quimperiana
Geomalacus maculosus
Geomitra moniziana
Helix subplicata

Leiostyla abbreviata
Leiostyla cassida
Leiostyla corneocostata
Leiostyla gibba
Leiostyla lamellosa
Vertigo angustior (o)
Vertigo genesii (o)
Vertigo geyeri (o)
Vertigo moulinsiana (o)

BIVALVIA*Unionoida*

Margaritifera margaritifera (V)
Unio crassus

(b) **PLANTS****PTERIDOPHYTA****ASPLENIACEAE**

Asplenium jahandiezii (Litard.) Rouy

BLECHNACEAE

Woodwardia radicans (L.) Sm.

DICKSONIACEAE

Culcita macrocarpa C. Presl

DRYOPTERIDACEAE

**Dryopteris corleyi* Fraser-Jenk.

HYMENOPHYLLACEAE

Trichomanes speciosum Willd.

ISOETACEAE

Isoetes boryana Durieu
Isoetes malinverniana Ces. & De Not.

MARSILEACEAE

Marsilea batardae Launert
Marsilea quadrifolia L.
Marsilea strigosa Willd.

OPHIOGLOSSACEAE

Botrychium simplex Hitchc.
Ophioglossum polyphyllum A. Braun

GYMNOSPERMAE**PINACEAE**

**Abies nebrodensis* (Lojac.) Mattei

ANGIOSPERMAE**ALISMATACEAE**

Caldesia parnassifolia (L.) Parl.
Luronium natans (L.) Raf.

AMARYLLIDACEAE

Leucojum nicaense Ard.
Narcissus asturiensis (Jordan) Pugsley
Narcissus calcicola Mendonça
Narcissus cyclamineus DC.
Narcissus fernandesii G. Pedro
Narcissus humilis (Cav.) Traub

- **Narcissus nevadensis* Pugsley
- **Narcissus pseudonarcissus* L.
 subsp. *nobilis* (Haw.) A. Fernandes
- Narcissus scaberulus* Henriq.
- Narcissus triandrus* (Salisb.) D. A. Webb
 subsp. *capax* (Salisb.) D. A. Webb.
- Narcissus viridiflorus* Schousboe

BORAGINACEAE

- **Anchusa crispa* Viv.
- **Lithodora nitida* (H. Ern) R. Fernandes
- Myosotis lusitanica* Schuster
- Myosotis rehsteineri* Wartm.
- Myosotis retusifolia* R. Afonso
- Omphalodes kuzinskyana* Willk.
- **Omphalodes littoralis* Lehm.
- Solenanthes albanicus* (Degen & al.) Degen & Baldacci
- **Symphytum cycladense* Pawl.

CAMPANULACEAE

- Asyneuma giganteum* (Boiss.) Bornm.
- **Campanula sabatia* De Not.
- Jasione crispa* (Pourret) Samp.
 subsp. *serpentinica* Pinto da Silva
- Jasione lusitanica* A. DC.

CARYOPHYLLACEAE

- **Arenaria nevadensis* Boiss. & Reuter
- Arenaria provincialis* Chater & Halliday
- Dianthus cintranus* Boiss. & Reuter
 subsp. *cintranus* Boiss. & Reuter
- Dianthus marizii* (Samp.) Samp.
- Dianthus rupicola* Biv.
- **Gypsophila papillosa* P. Porta
- Herniaria algarvica* Chaudri
- Herniaria berlengiana* (Chaudhri) Franco
- **Herniaria latifolia* Lapeyr.
 subsp. *litardierei* gamis
- Herniaria maritima* Link
- Moehringia tommasinii* Marches.
- Petrocoptis grandiflora* Rothm.
- Petrocoptis montsiciana* O. Bolos & Rivas Mart.
- Petrocoptis pseudoviscosa* Fernandez Casas
- Silene cintrana* Rothm.
- **Silene hicesiae* Brullo & Signorello
- Silene hifacensis* Rouy ex Willk.
- **Silene holzmanii* Heldr. ex Boiss.
- Silene longicilia* (Brot.) Orth.
- Silene mariana* Pau
- **Silene orphanidis* Boiss.
- **Silene rothmaleri* Pinto da Silva
- **Silene velutina* Pourret ex Loisel.

CHENOPODIACEAE

- **Bassia saxicola* (Guss.) A. J. Scott
- **Kochia saxicola* Guss.
- **Salicornia veneta* Pignatti & Lausi

CISTACEAE

- Cistus palhinhae* Ingram
- Halimium verticillatum* (Brot.) Sennen
- Helianthemum alypoides* Losa & Rivas Goday
- Helianthemum caput-felis* Boiss.
- **Tuberaria major* (Willk.) Pinto da Silva & Roseira

COMPOSITAE

- **Anthemis glaberrima* (Rech. f.) Greuter
- **Artemisia granatensis* Boiss.
- **Aster pyrenaicus* Desf. ex DC.
- **Aster sorrentinii* (Tod) Lojac.
- **Carduus myriacanthus* Salzm. ex DC.

- **Centaurea alba* L.
 subsp. *heldreichii* (Halacsy) Dostal
- **Centaurea alba* L.
 subsp. *princeps* (Boiss. & Heldr.) Gugler
- **Centaurea attica* Nyman
 subsp. *megarensis* (Halacsy & Hayek) Dostal
- **Centaurea balearica* J. D. Rodriguez
- **Centaurea borjae* Valdes-Berm. & Rivas Goday
- **Centaurea citricolor* Font Quer
 Centaurea corymbosa Pourret
 Centaurea gadorensis G. Bianca
- **Centaurea horrida* Badaro
- **Centaurea kalambakensis* Freyn & Sint.
 Centaurea kartschiana Scop.
- **Centaurea lactiflora* Halacsy
 Centaurea micrantha Hoffmanns. & Link
 subsp. *herminii* (Rouy) Dostál
- **Centaurea niederi* Heldr.
- **Centaurea peucedanifolia* Boiss. & Orph.
- **Centaurea pinnata* Pau
 Centaurea pulvinata (G. Bianca) G. Bianca
 Centaurea rothmalerana (Arènes) Dostál
 Centaurea vicentina Mariz
- **Crepis crocifolia* Boiss. & Heldr.
 Crepis granatensis (Willk.) B. Bianca & M. Cueto
 Erigeron frigidus Boiss. ex DC.
 Hymenostemma pseudanthesis (Kunze) Willd.
- **Jurinea cyanoides* (L.) Reichenb.
- **Jurinea fontqueri* Cuatrec.
- **Lamyropsis microcephala* (Moris) Dittrich & Greuter
 Leontodon microcephalus (Boiss. ex DC.) Boiss.
 Leontodon boryi Boiss.
- **Leontodon siculus* (Guss.) Finch & Sell
 Leuzea longifolia Hoffmanns. & Link
 Ligularia sibirica (L.) Cass.
 Santolina impressa Hoffmanns. & Link
 Santolina semidentata Hoffmanns. & Link
- **Senecio elodes* Boiss. ex DC.
 Senecio nevadensis Boiss. & Reuter

CONVOLVULACEAE

- **Convolvulus argyrothamnus* Greuter
- **Convolvulus Fernandes Pinto da Silva & Teles*

CRUCIFERAE

- Alyssum pyrenaicum* Lapeyr.
- Arabis sadina* (Samp.) P. Cout.
- **Biscutella neustriaca* Bonnet
 Biscutella vicentina (Samp.) Rothm.
- Boleum asperum* (Pers.) Desvaux
- Brassica glabrescens* Poldini
- Brassica insularis* Moris
- **Brassica macrocarpa* Guss.
 Coincya cintrana (P. Cout.) Pinto da Silva
- **Coincya rupestris* Rouy
- **Coronopus navasii* Pau
 Diploaxis ibicensis (Pau) Gomez-Campo
- **Diploaxis siettiana* Maire
 Diploaxis vicentina (P. Cout.) Rothm.
 Erucastrum palustre (Pirona) Vis.
- **Iberis arbuscula* Runemark
 Iberis procumbens Lange
 subsp. *microcarpa* Franco & Pinto da Silva
- **Ionopsidium acaule* (Desf.) Reichenb.
 Ionopsidium savianum (Caruel) Ball ex Arcang.
 Sisymbrium cavanillesianum Valdes & Castroviejo
 Sisymbrium supinum L.

CYPERACEAE

- **Carex panormitana* Guss.
- Eleocharis carniolica* Koch

DIOSCOREACEAE

- **Borderea chouardii* (Gaussen) Heslot

DROSERACEAE

- Aldrovanda vesiculosa* L.

EUPHORBIACEAE

- **Euphorbia margalidiana* Kuhbier & Lewejohann
- Euphorbia transtagana* Boiss.

GENTIANACEAE

- **Centaurium rigalii* Esteve Chueca
- **Centaurium somedanum* Lainz
- Gentiana ligustica* R. de Vilm. & Chopinet
- Gentianella angelica* (Pugsley) E. F. Warburg

GERANIACEAE

- **Erodium astragaloides* Boiss. & Reuter
- Erodium paularense* Fernandez-Gonzalez & Izco
- **Erodium rupicola* Boiss.

GRAMINEAE

- Avenula hackelii* (Henriq.) Holub
- Bromus grossus* Desf. ex DC.
- Coleanthus subtilis* (Tratt.) Seidl
- Festuca brigantina* (Markgr.-Dannenb.) Markgr.-Dannenb.
- Festuca duriotagana* Franco & R. Afonso
- Festuca elegans* Boiss.
- Festuca henriquesii* Hack.
- Festuca sumilusitanica* Franco & R. Afonso
- Gaudinia hispanica* Stace & Tutin
- Holcus setiglumis* Boiss. & Reuter
- subsp. *duriensis* Pinto da Silva
- Microproprysis tuberosa* Romero — Zarco & Cabezudo
- Pseudarrhenatherum pallens* (Link) J. Hoiub
- Puccinellia pungens* (Pau) Paunero
- **Stipa austroitalica* Martinovsky
- **Stipa bavarica* Martinovsky & H. Scholz
- **Stipa veneta* Moraldo

GROSSULARIACEAE

- **Ribes sardum* Martelli

HYPERICACEAE

- **Hypericum aciferum* (Greuter) N. K. B. Robson

JUNCACEAE

- Juncus valvatus* Link

LABIATAE

- Dracocephalum austriacum* L.
- **Micromeria taygetea* P. H. Davis
- Nepeta dirphyia* (Boiss.) Heldr. ex Halacsy
- **Nepeta sphaciotica* P. H. Davis
- Origanum dictamnus* L.
- Sideritis incana*
- subsp. *glauca* (Cav.) Malagarriga
- Sideritis javalambrensis* Pau
- Sideritis serrata* Cav. ex Lag.
- Teucrium lepicephalum* Pau
- Teucrium turredanum* Losa & Rivas Goday
- **Thymus camphoratus* Hoffmanns. & Link
- Thymus carnosus* Boiss.
- **Thymus cephalotos* L.

LEGUMINOSAE

- Anthyllis hystrix* Cardona, Contandr. & E. Sierra
- **Astragalus algarbiensis* Coss. ex Bunge
- **Astragalus aquilanus* Anzalone
- Astragalus centralpinus* Braun-Blanquet

- *Astragalus maritimus Moris
- Astragalus tremolsianus Pau
- *Astragalus verrucosus Moris
- *Cytisus aeolicus Guss. ex Lindl.
- Genista dorycnifolia Font Quer
- Genista holopetala (Fleischm. ex Koch) Baldacci
- Melilotus segetalis (Brot.) Ser.
- subsp. fallax Franco
- *Ononis hackelii Lange
- Trifolium saxatile All.
- *Vicia bifoliolata J. D. Rodriguez

LENTIBULARIACEAE

- Pinguicula nevadensis (Lindb.) Casper

LILIACEAE

- Allium grosii Font Quer
- *Androcymbium rechingeri Greuter
- *Asphodelus bento-rainhae P. Silva
- Hyacinthoides vicentina (Hoffmanns. & Link) Rothm.
- *Muscari gussonei (Parl.) Tod.

LINACEAE

- *Linum muelleri Moris

LYTHRACEAE

- *Lythrum flexuosum Lag.

MALVACEAE

- Kosteletzkya pentacarpos (L.) Ledeb.

NAJADACEAE

- Najas flexilis (Willd.) Rostk. & W. L. Schmidt

ORCHIDACEAE

- *Cephalanthera cucullata Boiss. & Heldr.
- Cyripedium calceolus L.
- Liparis loeselii (L.) Rich.
- *Ophrys lunulata Parl.

PAEONIACEAE

- Paeonia cambessedesti (Willk.) Willk.
- Paeonia pamassica Tzanoudakis
- Paeonia clusii F. C. Stern
- subsp. rhodia (Stearn) Tzanoudakis

PALMAE

- Phoenix theophrasti Greuter

PLANTAGINACEAE

- Plantago algarbiensis Samp.
- Plantago almogravensis Franco

PLUMBAGINACEAE

- Armeria berlangensis Daveau
- *Armeria helodes Martini & Pold
- Armeria negletii Girard
- Armeria pseudarmeria (Murray) Mansfeld
- *Armeria rouyana Daveau
- Armeria soleirolii (Duby) Godron
- Armeria velutina Welv. ex Boiss. & Reuter
- Limonium dodartii (Girard) O. Kuntze
- subsp. lusitanicum (Daveau) Franco
- *Limonium insulare (Beg. & Landi) Arrig. & Diana
- Limonium lanceolatum (Hoffmanns. & Link) Franco
- Limonium multiflorum Erben
- *Limonium pseudolaetum Arrig. & Diana
- *Limonium strictissimum (Salzmann) Arrig.

POLYGONACEAE

- Polygonum praelongum Coode & Cullen
- Rumex rupestris Le Gall

PRIMULACEAE

- Androsace mathildae Levier
- Androsace pyrenaica Lam.
- *Primula apennina Widmer
- Primula palinuri Petagna
- Soldanella villosa Darracq.

RANUNCULACEAE

- *Aconitum corsicum Gay
- Adonis distorta Ten.
- Aquilegia Bertolonii Schott
- Aquilegia kitaibelii Schott
- *Aquilegia pyrenaica D. C.
subsp. cazorlensis (Heywood) Galiano
- *Consolida samia P. H. Davis
- Pulsatilla patens (L.) Miller
- *Ranunculus weyleri Mares

RESEDACEAE

- *Reseda decursiva Forssk.

ROSACEAE

- Potentilla delphinensis Gren. & Godron

RUBIACEAE

- *Galium litorale Guss.
- *Galium viridiflorum Boiss. & Reuter

SALICACEAE

- Salix salvifolia Brot.
subsp. australis Franco

SANTALACEAE

- Thesium ebracteatum Hayne

SAXIFRAGACEAE

- Saxifraga berica (Beguinot) D. A. Webb
- Saxifraga florulenta Moretti
- Saxifraga hirculus L.
- Saxifraga tombeanensis Boiss. ex Engl.

SCROPHULARIACEAE

- Antirrhinum charidemi Lange
- Chaenorrhinum serpyllifolium (Lange) Lange
subsp. lusitanicum R. Fernandes
- *Euphrasia genargentea (Feoli) Diana
- Euphrasia marchesettii Wettst. ex Marches. ³
- Linaria algarviana Chav.
- Linaria coutinhoi Valdés
- *Linaria ficalhoana Rouy
- Linaria flava (Poiret) Desf.
- *Linaria hellenica Turrill
- *Linaria ricardoi Cout.
- *Linaria tursica B. Valdes & Cabezudo
- Linaria tonzigii Lona
- Odontites granatensis Boiss.
- Verbascum litigiosum Samp.
- Veronica micrantha Hoffmanns. & Link
- *Veronica oetaea L.-A. Gustavson

SELAGINACEAE

- *Globularia stygia Orph. ex Boiss.

SOLANACEAE

- *Atropa baetica Willk.

THYMELAEACEAE

- Daphne petraea Leybold
- *Daphne rodriguezii Textidor

ULMACEAE

Zelkova abelicea (Lam.) Boiss.

UMBELLIFERAE

- * *Angelica heterocarpa* Lloyd
- Angelica palustris* (Besser) Hoffm.
- * *Apium bermejoi* Llorens
- Apium repens* (Jacq.) Lag.
- Athamanta cortiana* Ferrarini
- * *Bupleurum capillare* Boiss. & Heldr.
- * *Bupleurum kakiskalae* Greuter
- Eryngium alpinum* L.
- * *Eryngium viviparum* Gay
- * *Laserpitium longiradium* Boiss.
- * *Naufraga balearica* Constans & Cannon
- * *Oenanthe coniooides* Langé
- Petagnia saniculifolia* Guss.
- Rouya polygama* (Desf.) Coincy
- * *Seseli intricatum* Boiss.
- Thorella verticillatundata* (Thore) Brig.

VALERIANACEAE

Centranthus trinervis (Viv.) Beguinot

VIOLACEAE

- * *Viola hispida* Lam.
- Viola jaubertiana* Mares & Vigineix

Lower plants

BRYOPHYTA

- Bruchia vogesiaca* Schwaegr. (o)
- * *Bryoerythrophyllum machadoanum* (Sergio) M. Hill (o)
- Buxbaumia viridis* (Moug. ex Lam. & DC.) Brid. ex Moug. & Nestl. (o)
- Dichelyma capillaceum* (With.) Myr. (o)
- Dicranum viride* (Sull. & Lesq.) Lindb. (o)
- Distichophyllum carinatum* Dix. & Nich. (o)
- Drepanocladus vernicosus* (Mitt.) Warnst. (o)
- Jungermannia handelii* (Schiffn.) Amak. (o)
- Mannia triandra* (Scop.) Grolle (o)
- * *Marsupella profunda* Lindb. (o)
- Meesia longiseta* Hedw. (o)
- Nothothylas orbicularis* (Schwein.) Sull. (o)
- Orthotrichum rogeri* Brid. (o)
- Petalophyllum ralfsii* Nees & Goot. ex Lehm. (o)
- Riccia breidlerii* Jur. ex Steph. (o)
- Riella helicophylla* (Mont.) Hook. (o)
- Scapania massolongi* (K. Muell.) K. Muell. (o)
- Sphagnum pylaisii* Brid. (o)
- Tayloria rudolphiana* (Gasrov) B. & G. (o)

SPECIES FOR MACARONESIA

PTERIDOPHYTA

HYMENOPHYLLACEAE

Hymenophyllum maderensis Gibby & Lovis

DRYOPTERIDACEAE

* *Polystichum drepanum* (Sw.) C. Presl.

ISOETACEAE

Isoetes azorica Durieu & Paiva

MARSILIACEAE

- **Marsilea azorica* Lauer & Paiva

ANGIOSPERMAE

ASCLEPIADACEAE

- Caralluma burchardii* N. E. Brown
- **Ceropegia chrysantha* Svent.

BORAGINACEAE

- Echium candicans* L. fil.
- **Echium gentianoides* Webb & Coincy
- Myosotis azorica* H. C. Watson
- Myosotis maritima* Hochst. in Seub.

CAMPANULACEAE

- **Azorina vidalii* (H. C. Watson) Feer
- Musschia aurea* (L. f.) DC.
- **Musschia wollastonii* Lowe

CAPRIFOLIACEAE

- **Sambucus palmensis* Link

CARYOPHYLLACEAE

- Spergularia azorica* (Kindb.) Lebel

CELASTRACEAE

- Maytenus umbellata* (R. Br.) Mabb.

CHENOPODIACEAE

- Beta patula* Ait.

CISTACEAE

- Cistus chinamadensis* Banares & Romero
- **Helianthemum bystropogophyllum* Svent.

COMPOSITAE

- Andryala crithmifolia* Ait.
- **Argyranthemum lidii* Humphries
- Argyranthemum thalassophyllum* (Svent.) Hump.
- Argyranthemum winterii* (Svent.) Humphries
- **Atractylis arbuscula* Svent. & Michaelis
- Atractylis preauxiana* Schultz.
- Calendula maderensis* DC.
- Cheirolophus duranii* (Burchard) Holub
- Cheirolophus gomerytus* (Svent.) Holub
- Cheirolophus junonianus* (Svent.) Holub
- Cheirolophus massonianus* (Lowe) Hansen
- Cirsium latifolium* Lowe
- Helichrysum gossypinum* Webb
- Helichrysum oligocephala* (Svent. & Bzaw.)
- **Lactuca watsoniana* Trel.
- **Onopordum nogalesii* Svent.
- **Onopordum carduelinum* Bolle
- **Pericallis hadrosoma* Svent.
- Phagnalon benettii* Lowe
- Stemmacantha cynaroides* (Chr. Son. in Buch) Ditt
- Sventenia bupleuroides* Font Quer
- **Tanacetum ptarmiciflorum* Webb & Berth

CONVOLVULACEAE

- **Convolvulus caput-medusae* Lowe
- **Convolvulus lopez-socasii* Svent.
- **Convolvulus massonii* A. Dietr.

CRASSULACEAE

- Aeonium gomeraense* Praeger
- Aeonium saundersii* Bolle
- Aichryson dumosum* (Lowe) Praeg.
- Monanthes wildpretii* Banares & Scholz
- Sedum brissemoretii* Raymond-Hamet

CRUCIFERAE

- **Crambe arborea* Webb ex Christ
- Crambe laevigata* DC. ex Christ
- **Crambe sventenii* R. Petters ex Bramwell & Sund.
- **Parolinia schizogynoides* Svent.
- Sinapidendron rupestre* (Ait.) Lowe

CYPERACEAE

- Carex malato-belizii* Raymond

DIPSACACEAE

- Scabiosa nitens* Roemer & J. A. Schultes

ERICACEAE

- Erica scoparia* L.
- subsp. *azorica* (Hochst.) D. A. Webb

EUPHORBIACEAE

- **Euphorbia nandiensis* Burchard
- Euphorbia lambii* Svent.
- Euphorbia stygiana* H. C. Watson

GERANIACEAE

- **Geranium maderense* P. F. Yeo

GRAMINEAE

- Deschampsia maderensis* (Haeck. & Born.)
- Phalaris maderensis* (Menezes) Menezes

LABIATAE

- **Sideritis cystosiphon* Svent.
- **Sideritis discolor* (Webb ex de Noe) Bolle
- Sideritis infernalis* Bolle
- Sideritis marmorea* Bolle
- Teucrium abutiloides* L'Hér
- Teucrium betonicum* L'Hér

LEGUMINOSAE

- **Anagyris latifolia* Brouss. ex Willd.
- Anthyllis lemanniana* Lowe
- **Dorycnium spectabile* Webb & Berthel
- **Lotus azoricus* P. W. Ball
- Lotus callis-viridis* D. Bramwell & D. H. Davis
- **Lotus kunkelii* (E. Chueca) D. Bramwell & al.
- **Teline rosmarinifolia* Webb & Berthel.
- **Teline salsoloides* Arco & Acebes.
- Vicia dennesiana* H. C. Watson

LILIACEAE

- **Androcymbium psammophilum* Svent.
- Scilla maderensis* Menezes
- Semele maderensis* Costa

LORANTHACEAE

- Arceuthobium azoricum* Wiens & Hawksw

MYRICACEAE

- **Myrica rivas-martinezii* Santos.

OLEACEAE

- Jasminum azoricum* L.
- Picconia azorica* (Tutin) Knobl.

ORCHIDACEAE

- Goodyera macrophylla* Lowe

PITTOSPORACEAE

- **Pittosporum coriaceum* Dryand. ex Ait.

PLANTAGINACEAE*Plantago malato-belizii* Lawalrec**PLUMBAGINACEAE**

- **Limonium arborescens* (Brouss.) Kuntze
- Limonium dendroides* Svent.
- **Limonium spectabile* (Svent.) Kunkel & Sunding
- **Limonium sventenii* Santos & Fernandez Galvan

POLYGONACEAE*Rumex azoricus* Rech. fil.**RHAMNACEAE***Frangula azorica* Tutin**ROSACEAE**

- **Bencomia brachystachya* Svent.
- Bencomia sphaerocarpa* Svent.
- **Chamaemeles coriacea* Lindl.
- Dendriopterium pulidoi* Svent.
- Marcetella maderensis* (Born.) Svent.
- Prunus lusitanica* L.
- subsp. *azorica* (Mouillef.) Franco
- Sorbus maderensis* (Lowe) Docle

SANTALACEAE*Lunkeliella subsucculenta* Kammer**SCROPHULARIACEAE**

- **Euphrasia azorica* Wats
- Euphrasia grandiflora* Hochst. ex Seub.
- **Isoplexis chalcantha* Svent. & O'Shanahan
- Isoplexis isabelliana* (Webb & Berthel.) Masferrer
- Odontites holliana* (Lowe) Benth.
- Sibthorpia peregrina* L.

SELAGINACEAE

- **Globularia ascanii* D. Bramwell & Kunkel
- **Globularia sarcophylla* Svent.

SOLANACEAE

- **Solanum lidii* Sunding

UMBELLIFERAE

Ammi trifoliatum (H. C. Watson) Trelease
Bupleurum handiense (Bolle) Kunkel
Chaerophyllum azoricum Trelease
Ferula latipinna Santos
Melanoselinum decipiens (Schrader & Wendl.) Hoffm.
Monizia edulis Lowe
Oenanthe divaricata (R. Br.) Mabb.
Sanicula azorica Guthnick ex Seub.

VIOLACEAE*Viola paradoxa* Lowe**Lower plants****BRYOPHYTA**

- **Echinodium spinosum* (Mitt.) Jur. (o)
- **Thamnobryum fernandesii* Sergio (o)

ANNEX III

CRITERIA FOR SELECTING SITES ELIGIBLE FOR IDENTIFICATION AS SITES OF COMMUNITY IMPORTANCE AND DESIGNATION AS SPECIAL AREAS OF CONSERVATION

STAGE 1: Assessment at national level of the relative importance of sites for each natural habitat type in Annex I and each species in Annex II (including priority natural habitat types and priority species)

A. *Site assessment criteria for a given natural habitat type in Annex I*

- (a) Degree of representativity of the natural habitat type on the site.
- (b) Area of the site covered by the natural habitat type in relation to the total area covered by that natural habitat type within national territory.
- (c) Degree of conservation of the structure and functions of the natural habitat type concerned and restoration possibilities.
- (d) Global assessment of the value of the site for conservation of the natural habitat type concerned.

B. *Site assessment criteria for a given species in Annex II*

- (a) Size and density of the population of the species present on the site in relation to the populations present within national territory.
- (b) Degree of conservation of the features of the habitat which are important for the species concerned and restoration possibilities.
- (c) Degree of isolation of the population present on the site in relation to the natural range of the species.
- (d) Global assessment of the value of the site for conservation of the species concerned.

C. On the basis of these criteria, Member States will classify the sites which they propose on the national list as sites eligible for identification as sites of Community importance according to their relative value for the conservation of each natural habitat type in Annex I or each species in Annex II.

D. That list will show the sites containing the priority natural habitat types and priority species selected by the Member States on the basis of the criteria in A and B above.

STAGE 2: Assessment of the Community importance of the sites included on the national lists

1. All the sites identified by the Member States in Stage 1 which contain priority natural habitat types and/or species will be considered as sites of Community importance.
2. The assessment of the Community importance of other sites on Member States' lists, i.e. their contribution to maintaining or re-establishing, at a favourable conservation status, a natural habitat in Annex I or a species in Annex II and/or to the coherence of Natura 2000 will take account of the following criteria:
 - (a) relative value of the site at national level;
 - (b) geographical situation of the site in relation to migration routes of species in Annex II and whether it belongs to a continuous ecosystem situated on both sides of one or more internal Community frontiers;
 - (c) total area of the site;
 - (d) number of natural habitat types in Annex I and species in Annex II present on the site;
 - (e) global ecological value of the site for the biogeographical regions concerned and/or for the whole of the territory referred to in Article 2, as regards both the characteristic of unique aspect of its features and the way they are combined.

ANNEX IV

ANIMAL AND PLANT SPECIES OF COMMUNITY INTEREST IN NEED OF STRICT PROTECTION

The species listed in this Annex are indicated:

- by the name of species or subspecies, or
- by the body of species belonging to a higher taxon or to a designated part of that taxon.

The abbreviation 'spp.' after the name of a family or genus designates all the species belonging to that family or genus.

(a) ANIMALS

VERTEBRATES

MAMMALS

INSECTIVORA

Erinaceidae

Erinaceus algirus

Soricidae

Crocidura canariensis

Talpidae

Galemys pyrenaicus

MICROCHIROPTERA

All species

RODENTIA

Gliridae

All species except *Glis glis* and *Eliomys quercinus*

Sciuridae

Citellus citellus

Sciurus anomalus

Castoridae

Castor fiber

Cricetidae

Cricetus cricetus

Microtidae

Microtus cabreræ

Microtus oeconomus arenicola

Zapodidae

Sicista betulina

Hystricidae

Hystrix cristata

CARNIVORA

Canidae

Canis lupus (Except Spanish populations north of the Duero and Greek populations north of the 39th parallel)

Ursidae

Ursus arctos

Mustelidae

Lutra lutra

Mustela lutreola

Felidae

Felis silvestris
Lynx lynx
Lynx pardina

Phocidae

Monachus monachus

ARTIODACTYLA

Cervidae

Cervus elaphus corsicanus

Bovidae

Capra aegagrus (natural populations)
Capra pyrenaica pyrenaica
Ovis ammon musimon (natural populations — Corsica and Sardinia)
Rupicapra rupicapra balcanica
Rupicapra ornata

CETACEA

All species

REPTILES

TESTUDINATA

Testudinidae

Testudo hermanni
Testudo graeca
Testudo marginata

Cheloniidae

Caretta caretta
Chelonia mydas
Lepidochelys kempii
Eretmochelys imbricata

Dermochelyidae

Dermochelys coriacea

Emydidae

Emys orbicularis
Mauremys caspica
Mauremys leprosa

SAURIA

Lacertidae

Algyroides fitzingeri
Algyroides marchi
Algyroides moreoticus
Algyroides nigropunctatus
Lacerta agilis
Lacerta bedriagae
Lacerta danfordi
Lacerta dugesi
Lacerta graeca
Lacerta horvathi
Lacerta monticola
Lacerta schreiberi
Lacerta trilineata
Lacerta viridis
Gallotia atlantica
Gallotia galloti
Gallotia galloti insulanagae
Gallotia simonyi
Gallotia stehlini
Ophisops elegans
Podarcis erhardii
Podarcis filfolensis
Podarcis hispanica atrata

Podarcis lilfordi
 Podarcis melisellensis
 Podarcis milensis
 Podarcis muralis
 Podarcis peloponnesiaca
 Podarcis pityusensis
 Podarcis sicula
 Podarcis taurica
 Podarcis tiliguerta
 Podarcis wagleriana

Scincidae

Ablepharus kitaibelli
 Chalcides bedriagai
 Chalcides occidentalis
 Chalcides ocellatus
 Chalcides sexlineatus
 Chalcides viridianus
 Ophiomorus punctatissimus

Gekkonidae

Cyrtopodion kotschy
 Phyllodactylus europaeus
 Tarentola angustimentalis
 Tarentola boettgeri
 Tarentola delalandii
 Tarentola gomerensis

Agamidae

Stellio stellio

Chamaeleontidae

Chamaeleo chamaeleon

Anguidae

Ophisaurus apodus

OPHIDIA

Colubridae

Coluber caspius
 Coluber hippocrepis
 Coluber jugularis
 Coluber laurenti
 Coluber najadum
 Coluber nummifer
 Coluber viridiflavus
 Coronella austriaca
 Eirenis modesta
 Elaphe longissima
 Elaphe quatuorlineata
 Elaphe situla
 Natrix natrix cetti
 Natrix natrix corsa
 Natrix tessellata
 Telescopus falax

Viperidae

Vipera ammodytes
 Vipera schweizeri
 Vipera seoanni (except Spanish populations)
 Vipera ursinii
 Vipera xanthina

Boidae

Eryx jaculus

AMPHIBIA. S.

CAUDATA

Salamandridae

Chioglossa lusitanica
 Euproctus asper
 Euproctus montanus

Euproctus platycephalus
Salamandra atra
Salamandra aurorae
Salamandra lanzai
Salamandra luschani
Salamandrina terdigitata
Triturus carnifex
Triturus cristatus
Triturus italicus
Triturus karelinii
Triturus marmoratus

Proteidae

Proteus anguinus

Plethodontidae

Speleomantes ambrosii
Speleomantes flavus
Speleomantes genei
Speleomantes imperialis
Speleomantes italicus
Speleomantes supramontes

ANURA

Discoglossidae

Bombina bombina
Bombina variegata
Discoglossus galganoi
Discoglossus jeanneae
Discoglossus montalentii
Discoglossus pictus
Discoglossus sardus
Alytes cisternasii
Alytes muletensis
Alytes obstetricans

Ranidae

Rana arvalis
Rana dalmatina
Rana graeca
Rana iberica
Rana italica
Rana latastei
Rana lessonae

Pelobatidae

Pelobates cultripes
Pelobates fuscus
Pelobates syriacus

Bufo

Bufo calamita
Bufo viridis

Hylidae

Hyla arborea
Hyla meridionalis
Hyla sarda

FISH

ACIPENSERIFORMES

Acipenseridae

Acipenser naccarii
Acipenser sturio

ATHERINIFORMES

Cyprinodontidae

Valencia hispanica

CYPRINIFORMES*Cyprinidae*

Anaecypris hispanica

PERCIFORMES*Percidae*

Zingel asper

SALMONIFORMES*Coregonidae*

Coregonus oxyrhynchus (anadromous populations in certain sectors of the North Sea)

INVERTEBRATES**ARTHROPODS****INSECTA***Coleoptera*

Buprestis splendens
Carabus olympiae
Cerambyx cerdo
Cucujus cinnaberinus
Dytiscus latissimus
Graphoderus bilineatus
Osmoderma eremita
Rosalia alpina

Lepidoptera

Apatura metis
Coenonympha hero
Coenonympha oedippus
Erebia calcaria
Erebia christi
Erebia sudetica
Eriogaster catax
Fabriciana elisa
Hypodryas maturna
Hyles hippophaes
Lopinga achine
Lycaena dispar
Maculinea arion
Maculinea nausithous
Maculinea teleius
Melanagria arge
Papilio alexanor
Papilio hospiton
Parnassius apollo
Parnassius mnemosyne
Plebicula golgus
Proserpinus proserpina
Zerynthia polyxena

Mantodea

Apteromantis aptera

Odonata

Aeshna viridis
Cordulegaster trinacriae
Gomphus graslinii
Leucorrhina albifrons
Leucorrhina caudalis
Leucorrhina pectoralis
Lindenia tetraphylla
Macromia splendens
Ophiogomphus cecilia
Oxygastra curtisii
Stylurus flavipes
Sympecma braueri

Orthoptera

Baetica ustulata
Saga pedo

ARACHNIDA

Araneae

Macrothele calpeiana

MOLLUSCS

GASTROPODA

Prosobranchia

Patella feruginea

Stylommatophora

Caseolus calculus
Caseolus commixta
Caseolus sphaerula
Discula leacockiana
Discula tabellata
Discula testudinalis
Discula turricula
Discus defloratus
Discus guerinianus
Elona quimperiana
Geomalacus maculosus
Geomitra moniziana
Helix subplicata
Leiostyla abbreviata
Leiostyla cassida
Leiostyla corneocostata
Leiostyla gibba
Leiostyla lamellosa

BIVALVIA

Anisomyaria

Lithophaga lithophaga
Pinna nobilis

Unionoidea

Margaritifera auricularia
Unio crassus

ECHINODERMATA

Echinoidea

Centrostephanus longispinus

(b) PLANTS

Annex IV (b) contains all the plant species listed in Annex II (b) ⁽¹⁾ plus those mentioned below

PTERIDOPHYTA

ASPLENIACEAE

Asplenium hemionitis L.

ANGIOSPERMAE

AGAVACEAE

Dracaena draco (L.) L.

AMARYLLIDACEAE

Narcissus longispathus Pugsley
Narcissus triandrus L.

⁽¹⁾ Except bryophytes in Annex II (b).

BERBERIDACEAE

Berberis maderensis Lowe

CAMPANULACEAE

Campanula morettiana Reichenb.
Physoplexis comosa (L.) Schur.

CARYOPHYLLACEAE

Moehringia fontqueri Pau

COMPOSITAE

Argyranthemum pinnatifidum (L.f.) Lowe
subsp. *succulentum* (Lowe) C. J. Humphries
Helichrysum sibthorpii Rouy
Picris willkommii (Schultz Bip.) Nyman
Santolina elegans Boiss. ex DC.
Senecio caespitosus Brot.
Senecio lagascanus DC.
subsp. *lusitanicus* (P. Cout.) Pinto da Silva
Wagenitzia lancifolia (Sieber ex Sprengel) Dostal

CRUCIFERAE

Murbeckiella sousae Rothm.

EUPHORBIACEAE

Euphorbia nevadensis Boiss. & Reuter

GESNERIACEAE

Jankaea heldreichii (Boiss.) Boiss.
Ramonda serbica Pancic

IRIDACEAE

Crocus etruscus Parl.
Iris boissieri Henriq.
Iris marisca Ricci & Colasante

LABIATAE

Rosmarinus tomentosus Huber-Morath & Maire
Teucrium charidemi Sandwith
Thymus capitellatus Hoffmanns. & Link
Thymus villosus L.
subsp. *villosus* L.

LILIACEAE

Androcymbium europeum (Lange) K. Richter
Bellevalia hackelli Freyn
Colchicum corsicum Baker
Colchicum cousturieri Greuter
Fritillaria conica Rix
Fritillaria drenovskii Dogen & Stoy.
Fritillaria gussichiae (Degen & Doerfler) Rix
Fritillaria obliqua Ker-Gawl.
Fritillaria rhodocanakis Orph. ex Baker
Ornithogalum reverchonii Degen & Herv.-Bass.
Scilla beirana Samp.
Scilla odorata Link

ORCHIDACEAE

Ophrys argolica Fleischm.
Orchis scopulorum Simsmeh.
Spiranthes aestivalis (Poiret) L. C. M. Richard

PRIMULACEAE

Androsace cylindrica DC.
Primula glaucescens Moretti
Primula spectabilis Tratt.

RANUNCULACEAE

Aquilegia alpina L.

SAPOTACEAE

Sideroxylon marmulano Banks ex Lowe

SAXIFRAGACEAE

Saxifraga cintrana Kuzinsky ex Willk.

Saxifraga portosantana Boiss.

Saxifraga presolanensis Engl.

Saxifraga valdensis DC.

Saxifraga vayredana Luizet

SCROPHULARIACEAE

Antirrhinum lopesianum Rochm.

Lindernia procumbens (Krocker) Philcox

SOLANACEAE

Mandragora officinarum L.

THYMELAEACEAE

Thymelaea broterana P. Cout.

UMBELLIFERAE

Bunium brevifolium Lowe

VIOLACEAE

Viola athis W. Becker

Viola cazoriensis Gandoger

Viola delphinantha Boiss.

ANNEX V

ANIMAL AND PLANT SPECIES OF COMMUNITY INTEREST WHOSE TAKING IN THE WILD AND EXPLOITATION MAY BE SUBJECT TO MANAGEMENT MEASURES

The species listed in this Annex are indicated:

- by the name of the species or subspecies, or
- by the body of species belonging to a higher taxon or to a designated part of that taxon.

The abbreviation 'spp.' after the name of a family or genus designates all the species belonging to that family or genus.

(a) ANIMALS

VERTEBRATES

MAMMALS

CARNIVORA

Canidae

Canis aureus

Canis lupus (Spanish populations north of the Duera and Greek populations north of the 39th parallel)

Mustelidae

Martes martes

Mustela putorius

Phocidae

All species not mentioned in Annex IV

Viverridae

Genetta genetta

Herpestes ichneumon

DUPLICIDENTATA

Leporidae

Lepus timidus

ARTIODACTYLA

Bovidae

Capra ibex

Capra pyrenaica (except *Capra pyrenaica pyrenaica*)

Rupicapra rupicapra (except *Rupicapra rupicapra balcanica* and *rupicapra ornata*)

AMPHIBIANS

ANURA

Ranidae

Rana esculenta

Rana perezi

Rana ridibunda

Rana temporaria

FISH

PETROMYZONIFORMES

Petromyzonidae

Lampetra fluviatilis

Lethenteron zanandrai

ACIPENSERIFORMES

Acipenseridae

All species not mentioned in Annex IV

SALMONIFORMES

Salmonidae

Thymallus thymallus

Coregonus spp. (except *Coregonus oxyrhynchus* — anadromous populations in certain sectors of the North Sea)

Hucho hucho

Salmo salar (only in fresh water)

Cyprinidae

Barbus spp.

PERCIFORMES

Percidae

Gymnocephalus schraetzer

Zingel zingel

CLUPEIFORMES

Clupeidae

Alosa spp.

SILURIFORMES

Siluridae

Silurus aristotelis

INVERTEBRATES

COELENTERATA

CNIDARIA

Corallium rubrum

MOLLUSCA

GASTROPODA — STYLOMMATOPHORA

Helicidae

Helix pomatia

BIVALVIA — UNIONOIDA

Margaritiferidae

Margaritifera margaritifera

Unionidae

Microcondylaea compressa

Unio elongatulus

ANNELIDA

HIRUDINOIDEA — ARHYNCHOBDELLAE

Hirudinidae

Hirudo medicinalis

ARTHROPODA

CRUSTACEA — DECAPODA

Astacidae

Astacus astacus

Austropotamobius pallipes

Austropotamobius torrentium

Scyllaridae

Scyllarides latus

INSECTA — LEPIDOPTERA

Saturniidae

Graellsia isabellae

(b) PLANTS

ALGAE

RHODOPHYTA

CORALLINACEAE

- Lithothamnium coralloides* Crouan frat.
Phymatholithon calcareum (Poll.) Adey & McKibbin

LICHENES

CLADONIACEAE

- Cladonia* L. subgenus *Cladina* (Nyl.) Vain.

BRYOPHYTA

MUSCI

LEUCOBRYACEAE

- Leucobryum glaucum* (Hedw.) Ångstr.

SPHAGNACEAE

- Sphagnum* L. spp. (except *Sphagnum pylasii* Brid.)

PTERIDOPHYTA

- Lycopodium* spp.

ANGIOSPERMAE

AMARYLLIDACEAE

- Galanthus nivalis* L.
Narcissus bulbocodium L.
Narcissus juncifolius Lagasca

COMPOSITAE

- Arnica montana* L.
Artemisia eriantha Ten
Artemisia genipi Weber
Doronicum plantagineum L.
subsp. *tournefortii* (Rouy) P. Coult.

CRUCIFERAE

- Alyssum pintadasilvae* Dudley.
Malcolmia lacera (L.) DC.
subsp. *gracilima* (Samp.) Franco
Murbeckiella pinnatifida (Lam.) Rothm.
subsp. *herminii* (Rivas-Martinez) Greuter & Burdet

GENTIANACEAE

- Gentiana lutea* L.

IRIDACEAE

- Iris lusitanica* Ker-Gawler

LABIATAE

- Teucrium salviastrum* Schreber
subsp. *salviastrum* Schreber

LEGUMINOSAE

- Anthyllis lusitanica* Cullen & Pinto da Silva
Dorycnium pentaphyllum Scop.
subsp. *transmontana* Franco
Ulex densus Welw. ex Webb.

LILIACEAE

- Lilium rubrum* Lmk
Ruscus aculeatus L.

PLUMBAGINACEAE

- Armeria sampaio* (Bernis) Nieto Feliner

ROSACEAE

Rubus genevieri Boreau
subsp. *herminii* (Samp.) P. Cout.

SCROPHULARIACEAE

Anarrhinum longipedicelatum R. Fernandes
Euphrasia mendonçae Samp.
Scrophularia grandiflora DC.
subsp. *grandiflora* DC.
Scrophularia berminii Hoffmanns & Link
Scrophularia sublyrata Brot.

COMPOSITAE

Leuzea rhaponticoides Graells

ANNEX VI

PROHIBITED METHODS AND MEANS OF CAPTURE AND KILLING AND MODES OF TRANSPORT

(a) Non-selective means

MAMMALS

- Blind or mutilated animals used as live decoys
- Tape recorders
- Electrical and electronic devices capable of killing or stunning
- Artificial light sources
- Mirrors and other dazzling devices
- Devices for illuminating targets
- Sighting devices for night shooting comprising an electronic image magnifier or image converter
- Explosives
- Nets which are non-selective according to their principle or their conditions of use
- Traps which are non-selective according to their principle or their conditions of use
- Crossbows
- Poisons and poisoned or anaesthetic bait
- Gassing or smoking out
- Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition

FISH

- Poison
- Explosives

(b) Modes of transport

- Aircraft
 - Moving motor vehicles
-

COUNCIL DIRECTIVE

of 17 December 1973

on the approximation of the laws of the Member States relating to devices to prevent the unauthorized use of motor vehicles

(74-61.EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof;

Having regard to the proposal from the Commission:

Having regard to the Opinion of the European Parliament ⁽¹⁾;

Having regard to the Opinion of the Economic and Social Committee ⁽²⁾;

Whereas the technical requirements which motor vehicles must satisfy pursuant to national laws relate, *inter alia*, to devices to prevent the unauthorized use of such vehicles;

Whereas those requirements differ from one Member State to another; whereas it is therefore necessary that all Member States adopt the same requirements, either in addition to or in place of their existing rules, in order in particular to allow the EEC type approval procedure which was the subject of the Council Directive of 6 February 1970 ⁽³⁾ on the approximation of the laws of the Member States relating to the type approval of motor vehicles and their trailers to be applied in respect of each type of vehicle;

Whereas as regards the technical requirements it is advisable to follow basically those adopted by the UN Economic Commission for Europe in its Regulation No 18 ⁽⁴⁾ ('Uniform provisions concerning the approval of vehicles with regard to their protection against unauthorized use'), which is annexed to the Agreement of 20 March 1958 concerning the adoption of uniform conditions of

approval and reciprocal recognition of approval for motor vehicle equipment and parts,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive, 'vehicle' means any motor vehicle intended for use on the road, with or without bodywork, having at least four wheels and a maximum design speed exceeding 25 km/h, with the exception of vehicles which run on rails, agricultural tractors and machinery and engineering plant.

Article 2

No Member State may refuse to grant EEC type approval or national type approval of a vehicle on grounds relating to the device to prevent unauthorized use if such device meets the requirements set out in Annex I.

Article 3

No Member State may refuse or prohibit the sale, registration, entry into service or use of any vehicle on grounds relating to the device to prevent unauthorized use if such device meets the requirements set out in Annex I.

Article 4

The Member State which has granted type approval shall take the necessary measures to be informed of any modification of a part or characteristic referred to in item 2.2. of Annex I. The competent authorities of that State shall determine whether fresh tests should be carried out on the modified vehicle and a fresh report drawn up. Where such tests reveal failure to comply with the requirements of this Directive, the modification shall not be approved.

⁽¹⁾ OJ No C 112, 27. 10. 1972, p. 16.

⁽²⁾ OJ No C 60, 26. 7. 1973, p. 12.

⁽³⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽⁴⁾ EEC, Geneva, E/ECE/324 — E/ECE/TRANS-505/Rev. Add. 17.

Article 5

The amendments necessary for adjusting the requirements of Annexes I and II so as to take account of technical progress shall be adopted in accordance with the procedure laid down in Article 12 of the Council Directive of 6 February 1970 on the harmonization of the laws of the Member States relating to the type-approval of motor vehicles and their trailers.

Article 6

1. Member States shall put into force the provisions needed in order to comply with this Directive within eighteen months of its notification and shall forthwith inform the Commission thereof.

2. Member States shall ensure that the texts of the main provisions of national law which they adopt in the field covered by this Directive are communicated to the Commission.

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 17 December 1973.

For the Council

The President

I. NORGAARD

ANNEX I⁽¹⁾SCOPE, DEFINITIONS, APPLICATION FOR EEC TYPE APPROVAL,
AND SPECIFICATIONS

1. FITTING OF DEVICE

Every vehicle in Categories M₁ and N₁ (defined in Annex I of the Directive of 6 February 1970) must be equipped with a device to prevent unauthorized use. The fitting of this device on vehicles of other categories shall be optional.

2. DEFINITIONS

For the purposes of this Directive

(2.1.)

2.2. 'vehicle type' means, in the context of preventing its unauthorized use, a category of motor vehicles which do not differ in such essential respect as:

2.2.1. the manufacturer's description of the vehicle type;

2.2.2. the arrangement and design of the component or components on which the protective device acts;

2.2.3. the type of protective device;

2.3. 'protective device' means the totality of the components designed to prevent the unauthorized use of the vehicle. The protective device is constituted by combining a device preventing the engine from being started by means of the normal control with one of the following devices. The protective device may be one:

- acting on the steering,
- acting on the gear-shift control,
- acting on the transmission, or
- preventing the engine from running.

2.3.1. Devices preventing the release of the vehicle's brakes only are not considered to be 'protective devices':

(2.4.)

2.5. 'steering mechanism' means the steering control, the steering column and its accessory cladding, the steering shaft, the steering gear box, and all such other components as those designed to participate in absorbing energy in the event of collision with the steering-wheel.

3. APPLICATION FOR EEC TYPE APPROVAL

3.1. The application for approval of a type of vehicle with regard to the protective device to prevent its unauthorized use shall be submitted by the vehicle manufacturer or by his duly accredited representative.

3.2. It shall be accompanied by the undermentioned documents, in triplicate, and by the following particulars:

⁽¹⁾ The text of the Annex is almost identical to that of UN Economic Community for Europe Regulation No 18; in particular, the point numbers are the same; for this reason, if an item from Regulation No 18 has no equivalent in this Directive, the number is shown in brackets as a reminder.

- 3.2.1. a detailed description of the vehicle type with regard to the arrangement and design of the control or of the unit on which the protective device acts;
- 3.2.2. drawings, on an appropriate scale and in sufficient detail, of the protective device and of its mounting on the vehicle;
- 3.2.3. a technical description of the device;
- 3.3. There shall be submitted to the technical service responsible for conducting the type approval tests:
 - 3.3.1. a vehicle representative of the vehicle type to be approved, and
 - 3.3.2. at the request of the technical service, such components of the vehicle as that service deems essential for the checks prescribed in points 5 and 6.

4. EEC TYPE APPROVAL

(4.1.)

(4.2.)

- 4.3. A certificate conforming to the model shown in Annex II shall be attached to the EEC type approval certificate.

(4.4.)

(4.4.1.)

(4.4.2.)

(4.5.)

(4.6.)

5. GENERAL SPECIFICATIONS

- 5.1. The protective device shall be so designed that it is necessary to put it out of action in order to enable:
 - 5.1.1. the engine to be started by means of the normal control or
 - 5.1.2. the vehicle to be driven or shifted forward under its own power.
- 5.2. When the device is in action, those of its parts which are necessary for complying with the condition of point 5.1.2 above shall be incapable of being rendered ineffective by simple means.
- 5.3. The engine shall be started and the requirements of point 5.1 shall be satisfied only by the action of one key on a single lock; except in the case laid down in point 6.1.6, the key shall not be capable of being completely removed from the lock unless the protective device referred to in point 5.1 has come into action or been set to act.
- 5.4. The protective device referred to in point 5.1 above shall be so designed that it cannot rapidly and without attracting attention be opened, rendered ineffective or destroyed.
- 5.5. The protective device shall be mounted on the vehicle as an item of permanent equipment. It shall be fitted in such a way that even after removal of its housing it cannot, when in the locked condition, be dismantled otherwise than with special tools. If it would be possible to render the protective device ineffective by the removal of screws, the screws shall, unless they are non-removable screws, be covered by parts of the locked protective device.
- 5.6. The lock shall be securely assembled in the protective device.

- 5.7. The locks used shall comprise not less than 1 000 different combinations, that is, the key appropriate to one combination shall not be capable of opening more than an average of one lock in 1 000. In the vehicles of one type the frequency of occurrence of each combination shall be roughly one per 1 000.
- 5.8. Protective devices shall be such as to exclude any risk, while the vehicle is in motion, of accidental locking likely to compromise safety.
- 5.9. If the operation of the protective device requires the use of an energy reserve other than the energy of the driver, that energy reserve shall be used only to activate the device's locking and unlocking system. The protective device shall be kept in position by purely mechanical means.
- 5.10. The protective device may be additionally equipped with an external acoustic warning device which will be activated on any attempt to unlock the device, render it inoperative or destroy it: the signals emitted shall be brief and shall end automatically after not more than 30 seconds; they shall recommence only if the device is activated again. In addition, it shall be emitted by the normal warning device fitted on the vehicle.
- 5.10.1)
- 5.10.2)

6. PARTICULAR SPECIFICATIONS

In addition to the general specifications prescribed in point 5, if the protective device is of a type acting on the steering, on the transmission or on the gear-shift control, it shall comply with the particular conditions prescribed below for such types of device.

6.1. Protective devices acting on the steering

- 6.1.1. A protective device acting on the steering shall lock the steering.
- 6.1.2. It shall not be possible for the steering to be locked inadvertently when the key is in the lock of the protective device, even if the device preventing starting of the engine has come into action or been set to act.
- 6.1.3. It shall not be possible to switch on the ignition of a petrol-engined vehicle or to start the engine of a diesel-engined vehicle by means of the normal control, until a lock acting on the steering has been opened.
- 6.1.4. When the protective device is set to act, it shall not in any event be possible to prevent engagement of the bolt in its counterpart.
- 6.1.5. The bolt shall engage to a sufficient depth to ensure that the protective device continues to be effective even after it has undergone some degree of wear.
- 6.1.6. If the protective device is such that the key can be removed in a position other than the position in which the steering is locked, it shall be so designed that the manoeuvre required to reach that position and remove the key cannot be effected inadvertently.
- 6.1.7. The protective device shall be strong enough to withstand, without damage to the steering mechanism likely to compromise safety, the application in both directions parallel to the axis of the steering shaft, and in static conditions, of a torque of 19.6 mdaN.

6.2. Protective devices acting on the transmission

A protective device acting on the transmission shall prevent the rotation of the vehicle's driving wheels.

6.3. Protective devices acting on the gear-shift control

- 6.3.1. A protective device acting on the gear-shift control shall be capable of preventing any change of gear.
- 6.3.2. In the case of manual gear-boxes, it shall be possible to lock the gear-shift lever in the following positions only: reverse plus neutral, or reverse only.
- 6.3.3. In the case of automatic gear-boxes, locking shall be possible in the 'Parking' position only; additional locking in the 'neutral' position shall be permissible.

7.)

8.)

9.)

10.)

11.)

ANNEX II

Name of administration

SAMPLE

COMMUNICATION CONCERNING THE TYPE-APPROVAL

of refusal or withdrawal of type-approval of a type of power-driven vehicle with regard to its protection against unauthorized use:

Approval No

1. Trade name or mark of the power driven vehicle

2. Vehicle type

3. Manufacturer's name and address

4. If applicable, name and address of manufacturer's representative

5. Brief description of the protective device, of its mounting, and of the vehicle component or function on which it acts, apart from starting of the engine, steering gear-shift control, transmission, prevention of running of engine

6. The vehicle is additionally equipped with an audible warning device of the following type

7. Vehicle submitted for type-approval on

8. Technical service conducting type-approval tests

9. Date of report issued by that service

10. Number of report issued by that service

11. Type-approval granted/refused (1)

12.

13.

14.

15. The following documents, bearing the type-approval number shown above, are annexed to this communication:

..... drawings, diagrams and plans of the protective device, of its mounting, and of the vehicle components on which it acts.

..... photographs of the protective device and of the other components contributing to the protection of the vehicle against unauthorized use.

(1) Delete as appropriate.

CORRIGENDA

Corrigendum to Council Directive No 72/306/EEC of 2 August 1972 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of pollutants from diesel engines for use in vehicles

(Official Journal of the European Communities No L 190 of 20 August 1972)

Page 1, Article 3, seventh line :

for : '... modified vehicle ...'

read : '... modified vehicle type ...'

Corrigendum to Council Directive No 74/60/EEC of 17 December 1973 on the approximation of the laws of the Member States relating to the interior fittings of motor vehicles (interior parts of the passenger compartment other than the interior rear-view mirrors, layout of controls, the roof or sliding roof, the backrest and rear part of the seats)

(Official Journal of the European Communities No L 38 of 11 February 1974)

Page 3, Article 4, seventh line :

for : '... modified vehicle ...'

read : '... modified vehicle type ...'

Corrigendum to Council Directive No 74/61/EEC of 17 December 1973 on the approximation of the laws of the Member States relating to devices to prevent the unauthorized use of motor vehicles

(Official Journal of the European Communities No L 38 of 11 February 1974)

Page 22, Article 4, sixth line :

for : '... modified vehicle ...'

read : '... modified vehicle type ...'

I

(Acts whose publication is obligatory)

COMMISSION DIRECTIVE 95/56/EC

of 8 November 1995

adapting to technical progress Council Directive 74/61/EEC relating to devices to prevent the unauthorized use of motor vehicles

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to Council Directive 70/156/EEC of 6 February 1970 relating to the type-approval of motor vehicles and their trailers ⁽¹⁾, as last amended by Commission Directive 93/81/EEC ⁽²⁾, and in particular Article 13 (2) thereof,Having regard to Council Directive 74/61/EEC of 17 December 1973 on the approximation of the laws of the Member States relating to devices to prevent the unauthorized use of motor vehicles ⁽³⁾, and in particular Article 5 thereof,

Whereas Directive 74/61/EEC is one of the separate Directives within the EEC type-approval procedure which has been established by Council Directive 70/156/EEC; whereas, consequently, the provisions laid down in Directive 70/156/EEC concerning vehicle systems, components and separate technical units apply to this Directive;

Whereas, in particular, Article 3 (4) and Article 4 (3) of Directive 70/156/EEC necessitate that each separate Directive has attached to it an information document incorporating the relevant items of Annex I to that Directive and also a type-approval certificate based on Annex VI thereto in order that type-approval may be computerized;

Whereas, in view of experience gained and of the state of the art, and in particular of the corresponding regulation of the United Nations Economic Commission for Europe, it is now appropriate to adapt the requirements for the above devices by adding requirements for alarm systems and immobilizers;

Whereas, the audible signal of the alarm device can be emitted by audible warning devices as established by Council Directive 70/388/EEC ⁽⁴⁾;Whereas other measures, such as those relating to the locking of the doors and of the luggage boot, will be taken at a later date with a view to strengthening more the means of dissuasion against an unauthorized use of the vehicles; whereas, in addition, the provisions of this Directive should be re-examined after a short period with a view to strengthening them further, *inter alia*, to cover other vehicles; whereas the Commission will draw up a report on these questions by December 1996 at the latest, accompanied, where appropriate, by new proposals;

Whereas the provisions of this Directive are in accordance with the opinion of the Committee for Adaptation to Technical Progress established by Directive 70/156/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Directive 74/61/EEC shall be amended as follows:

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.⁽²⁾ OJ No L 264, 23. 10. 1993, p. 49.⁽³⁾ OJ No L 38, 11. 2. 1974, p. 22.⁽⁴⁾ OJ No L 176, 10. 8. 1970, p. 12.

- Article 1 to replace '... with or without bodywork, ...' by '... being complete or incomplete, ...' and '... rails, agriculture tractors and machinery and engineering plant.' by '... rails and of agricultural and forestry tractors and all mobile machinery.'
- in Article 2 and 3, replace 'Annex I' by 'the relevant Annexes',
- in Article 4, replace 'item 2.2 of Annex I' by 'the relevant Annexes',
- in Article 5, replace 'Annexes I and II' by 'the Annexes'.

2. A list of Annexes shall be added before the Annexes, and the Annexes to Directive 74/61/EEC shall be replaced by the Annexes to this Directive.

Article 2

1. With effect from 1 May 1996 Member States may not:

- refuse, in respect of a type of motor vehicle, a type of immobilizer or a type of alarm system, to grant EEC type-approval or to grant national type-approval, or
- prohibit the registration, sale or placing in service of vehicles or the sale or entry into service of immobilizers or alarm systems,

on grounds relating to devices to prevent the unauthorized use of motor vehicles, if those devices comply with the requirements of Directive 74/61/EEC as amended by this Directive.

2. With effect from 1 January 1997, the Member States:

- shall no longer grant EEC type-approval, and
- may refuse to grant national type-approval,

for a type of vehicle on grounds relating to devices to prevent unauthorized use or for a type of immobilizer or for a type of alarm system, if the requirements of Directive 74/61/EEC, as amended by this Directive, are not fulfilled.

3. With effect from 1 October 1998, the Member States:

- shall consider certificates of conformity which accompany new vehicles in accordance with the provisions of Directive 70/156/EEC to be no longer valid for the purposes of Article 7 (1) of that Directive, and

- may refuse the registration, sale and entry into service of new vehicles which are not accompanied by a certificate of conformity in accordance with Directive 70/156/EEC,

- may refuse the sale and entry into service of new immobilizers or new alarm systems,

on grounds relating to devices to prevent unauthorized use, if the requirements of Directive 74/61/EEC, as amended by this Directive, are not fulfilled.

4. With effect from 1 October 1998 the requirements of this Directive relating to immobilizers and to alarm systems as component or separate technical unit are applicable for the purposes of Article 7 (2) of Directive 70/156/EEC.

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary in order to comply with this Directive by 1 May 1996. They shall forthwith inform the Commission thereof.

2. When the Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

3. Member States shall communicate to the Commission the texts of the main provisions of national law that they adopt in the field governed by this Directive.

Article 4

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 8. November 1995.

For the Commission

Martin BANGEMANN

Member of the Commission

LIST OF ANNEXES

	<i>Page</i>
ANNEX I: Administrative provisions for type-approval	4
<i>Appendix 1:</i> Model of certificate of conformity	6
ANNEX II: Information documents	7
<i>Appendix 1:</i> Information document for a type of vehicle	7
<i>Appendix 2:</i> Information for a type of immobilizer	9
<i>Appendix 3:</i> Information document for a type of vehicle alarm system	10
ANNEX III: EEC type-approval certificates	11
<i>Appendix 1:</i> EEC type-approval certificate for a vehicle	11
<i>Appendix 2:</i> EEC type-approval certificate for an immobilizer	13
<i>Appendix 3:</i> EEC type-approval certificate for a vehicle alarm system	15
ANNEX IV: Scope, definitions and requirements for devices to prevent unauthorized use	17
<i>Appendix 1:</i> Wear-producing test procedure for devices to prevent unauthorized use acting on the steering	21
<i>Appendix 2:</i> Test procedure for devices to prevent unauthorized use acting on the steering using a torque limiting device	22
ANNEX V: Scope, definitions and requirements for immobilizers	23
<i>Appendix 1:</i> Model of installation certificate	27
ANNEX VI: Scope, definitions and requirements for vehicle alarm systems	28
<i>Appendix 1:</i> Model of installation certificate	41
<i>Appendix 2:</i> Test of systems for the protection of the passenger compartment ..	42
<i>Appendix 3:</i> Specifications for mechanical key switches	42
<i>Appendix 4:</i> Technical prescriptions for audible alarm devices	43

ANNEX I

ADMINISTRATIVE PROVISIONS FOR TYPE-APPROVAL

1. **Application for EEC type-approval of a vehicle**
 - 1.1. The application for EEC type-approval pursuant to Article 3 (4) of Directive 70/156/EEC of a vehicle type with regard to its device to prevent unauthorized use, its immobilizer and, if applicable, its alarm system shall be submitted by the manufacturer.
 - 1.2. A model for the information document is given in Annex II, Appendix 1.
 - 1.3. The following must be submitted to the technical service responsible for conducting the type-approval tests:
 - 1.3.1. A vehicle representative of the type to be approved.
 - 1.3.2. If available, the type-approval certificates of immobilizers/alarm systems installed.
2. **Application for EEC type-approval of a type of vehicle immobilizer**
 - 2.1. The application for EEC type-approval as a component or a separate technical unit pursuant to Article 3 (4) of Directive 70/156/EEC of a type of immobilizer shall be submitted by the manufacturer.
 - 2.2. A model for the information document is given in Annex II, Appendix 2.
 - 2.3. The following must be submitted to the technical service responsible for conducting the type-approval tests:
 - 2.3.1. Three samples of the type of immobilizer to be approved with all its components. Each of the main components must be clearly and indelibly marked with the applicant's trade name or mark and the type designation of that component.
 - 2.3.2. (A) vehicle(s) fitted with the immobilizer to be type approved, chosen by the applicant in agreement with the technical service.
3. **Application for EEC type-approval of a type of vehicle alarm system**
 - 3.1. The application for EEC type-approval as a component or a separate technical unit pursuant to Article 3 (4) of Directive 70/156/EEC of a type of alarm system shall be submitted by the manufacturer.
 - 3.2. A model for the information document is given in Annex II, Appendix 3.
 - 3.3. The following must be submitted to the technical service responsible for conducting the type-approval tests:
 - 3.3.1. Three samples of the type of alarm system to be approved with all its components. Each of the main components must be clearly and indelibly marked with the applicant's trade name or mark and the type designation of that component.
 - 3.3.2. (A) vehicle(s) fitted with the alarm system to be type approved, chosen by the applicant in agreement with the technical service.
4. **Granting of EEC type-approval**
 - 4.1. If the relevant requirements are satisfied, EEC type-approval pursuant to Article 4 (3) and (4) of Directive 70/156/EEC shall be granted.
 - 4.2. A model for the EEC type-approval certificate is given in:
 - Annex III, Appendix 1 for applications referred to in item 1.1,
 - Annex III, Appendix 2 for applications referred to in item 2.1,
 - Annex III, Appendix 3 for applications referred to in item 3.1.

4.3. An approval number in accordance with Annex VII to Directive 70/156/EEC shall be assigned to each type of vehicle, type of immobilizer or type of alarm system approved. The same Member State shall not assign the same number to another type of vehicle, type of immobilizer or type of alarm system.

5. EEC type-approval mark

5.1. Every vehicle alarm system and every immobilizer, conforming to a type approved pursuant to this Directive, shall bear an EEC type-approval mark. This mark shall consist of:

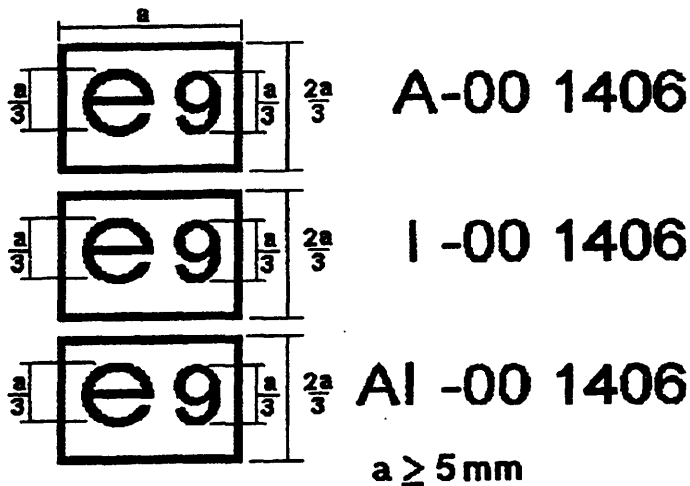
5.1.1. a rectangle surrounding the lowercase letter 'e' followed by the distinguishing letters or number of the Member State granting the approval:

- '1' Germany
- '2' France
- '3' Italy
- '4' Netherlands
- '5' Sweden
- '6' Belgium
- '9' Spain
- '11' United Kingdom
- '12' Austria
- '13' Luxembourg
- '17' Finland
- '18' Denmark
- '21' Portugal
- '23' Greece
- 'IRL' Ireland

5.1.2. in the vicinity of the rectangle the 'base approval number' contained in Section 4 of the type-approval number referred to in Annex VII to Directive 70/156/EEC, preceded by the two figures indicating the sequence number assigned to the most recent major technical amendment to Directive 74/61/EEC on the date EEC type-approval was granted. In this Directive, the sequence number is 00;

5.1.3. the additional symbol 'A' or 'I' or 'AI', indicating if the component or the separate technical unit is a vehicle alarm system or an immobilizer or a combination of both.

5.2. Examples of EEC type-approval marks are given below (1):



(1) The above approval mark affixed to a vehicle alarm system or to an immobilizer shows that the alarm system (A) or the immobilizer (I) or an alarm system in combination with an immobilizer (AI) has been approved in Spain (e 9), under the base approval number 1406. The first two digits (00) indicate that the approval was granted pursuant to this Directive.

- 5.3. As an alternative to the approval mark described in items 5.1 and 5.2, a certificate of conformity shall be issued for every vehicle alarm system offered for sale.

Where a vehicle alarm system manufacturer supplies an approved unmarked vehicle alarm system to a vehicle manufacturer, for fitment by the manufacturer as original equipment for a vehicle model or range of vehicle models, the vehicle alarm system manufacturer shall supply a number of copies of the certificate of conformity to the vehicle manufacturer, sufficient for that manufacturer to obtain the vehicle approval to Part II of Annex VI to this Directive.

If the vehicle alarm system is made up of separate components, its main component(s) shall bear a reference mark and the certificate of conformity shall provide a list of such reference marks.

A model of the certificate of conformity is given in Appendix I to this Annex.

- 6. **Modifications of the type and amendments to approvals**
 - 6.1. In the case of modifications of the type of vehicle, type of immobilizer or type of vehicle alarm system approved pursuant to this Directive, the provisions of Article 5 of Directive 70/156/EEC shall apply.
- 7. **Conformity of production**
 - 7.1. Measures to ensure the conformity of production shall be taken in accordance with the provisions laid down in Article 10 of Directive 70/156/EEC.

Appendix 1

Model of certificat of conformity

I the undersigned , testify that the vehicle alarm system described below
(surname and name)

Make:

Type:

is in total conformity with the type approved at on
(place of approval) (date)

as described in the EEC type-approval certificate bearing approval No

Identification of the main component(s):

Component:	Marking:
.....
.....

Done at: on:

Manufacturer's full address and stamp:

Signature:
(specify position)

ANNEX II

INFORMATION DOCUMENTS

Appendix 1

Information document No ...

in accordance with Annex I to Council Directive 70/156/EEC relating to EEC type-approval of a vehicle type with respect to devices to prevent unauthorized use (*)

(Directive 74/61/EEC, as last amended by Directive .../.../EEC)

The following information, if applicable, must be supplied in triplicate and include a list of contents. Any drawings must be supplied in appropriate scale and in sufficient detail on size A4 or on a folder of A4 format. Photographs, if any, must show sufficient detail.

If the systems, components or separate technical units have electronic controls, information concerning their performance must be supplied.

- 0. General
 - 0.1. Make (trade name of manufacturer):
 - 0.2. Type and general commercial description(s):
 - 0.3. Means of identification of type, if marked on the vehicle (b):
 - 0.3.1. Location of that marking:
 - 0.4. Category of vehicle (c):
 - 0.5. Name and address of manufacturer:
 - 0.8. Address(es) of assembly plant(s):
- 1. General construction characteristics of the vehicle
 - 1.1. Photographs and/or drawings of a representative vehicle:
- 12. Miscellaneous
 - 12.2. Devices to prevent unauthorized use of the vehicle
 - 12.2.1. Protective device
 - 12.2.1.1. A detailed description of the vehicle type with regard to the arrangement and design of the control or of the unit on which the protective device acts:
 - 12.2.1.2. Drawing of the protective device and of its fitting to the vehicle:
 - 12.2.1.3. A technical description of the device:
 - 12.2.1.4. Details of the lock combination used:
 - 12.2.1.5. Vehicle immobilizer
 - 12.2.1.5.1. Type-approval number, if available:

(*) The item numbering and footnotes used in this information document correspond to those contained in Annex I to Directive 70/156/EEC. Items which are not relevant to this Directive are omitted.

- 12.2.1.5.2. For immobilizers not yet approved:
 - 12.2.1.5.2.1. A detailed technical description of the vehicle immobilizer and of the measures taken against inadvertent activation:
 - 12.2.1.5.2.2. The system(s) on which the vehicle immobilizer acts:
 - 12.2.1.5.2.3. Number of effective interchangeable codes, if applicable:
 - 12.2.2. Alarm system, if any
 - 12.2.2.1. Type-approval number, if available:
 - 12.2.2.2. For alarm systems not yet approved:
 - 12.2.2.2.1. A detailed description of the alarm system and of the vehicle parts related to the alarm system installed:
 - 12.2.2.2.2. A list of the main components comprising the alarm system:

Appendix 2

Information document No . . .

relating to EEC type-approval as component or separate technical unit of vehicle immobilizers

(Directive 74/61/EEC, as last amended by Directive . . . /EC)

The following information, if applicable, must be supplied in triplicate and include a list of contents. Any drawings must be supplied in appropriate scale and in sufficient detail on size A4 or on a folder of A4 format. Photographs, if any, must show sufficient detail.

If the systems, components or separate technical units have electronic controls, information concerning their performance must be supplied.

0. **General**
 - 0.1. Make (trade name of manufacturer):
 - 0.2. Type and general commercial description(s):
 - 0.5. Name and address of manufacturer:
 - 0.7. In the case of components and separate technical units, location and method of affixing of the EEC type-approval mark:
 - 0.8. Address(es) of assembly plant(s):

1. **Description of the device**
 - 1.1. A detailed technical description of the device including, *inter alia*, the measures taken against inadvertent activation:
 - 1.2. The vehicle systems on which the device acts:
 - 1.3. Method of setting/unsetting the device:
 - 1.4. Number of effective interchangeable codes, if applicable:
 - 1.5. List of main components comprising the device and, if applicable, their reference marks:

2. **Drawings**
 - 2.1. Drawings of the main components of the device (the drawings must show the intended space for the EEC type-approval mark or reference mark, as applicable):

3. **Instructions**
 - 3.1. List of vehicles to which the device is intended to be fitted:
 - 3.2. Description of the method of installation illustrated by photographs and/or drawings:
 - 3.3. Instructions for use:
 - 3.4. Instructions for maintenance, if any:

Appendix 3

Information document No ...

relating to EEC type-approval as component or separate technical unit of vehicle alarm systems

(Directive 74/61/EEC, as last amended by Directive .../.../EEC)

The following information, if applicable, must be supplied in triplicate and include a list of contents. Any drawings must be supplied in appropriate scale and in sufficient detail on size A4 or on a folder of A4 format. Photographs, if any, must show sufficient detail.

If the systems, components or separate technical units have electronic controls, information concerning their performance must be supplied.

0. **General**
 - 0.1. Make (trade name of manufacturer):
 - 0.2. Type and general commercial description(s):
 - 0.5. Name and address of manufacturer:
 - 0.7. In the case of components and separate technical units, location and method of affixing of the EEC type-approval mark:
 - 0.8. Address(es) of assembly plant(s):

1. **Description of the device**
 - 1.1. A detailed technical description of the device including, *inter alia*, the measures taken against false alarms:
 - 1.2. Range of protection offered by the device:
 - 1.3. Method of setting/unsetting the device:
 - 1.4. Number of effective interchangeable codes, if applicable:
 - 1.5. List of main components comprising the device and, if applicable, their reference marks:

2. **Drawings**
 - 2.1. Drawings of the main components of the device (the drawings must show the intended space for the EEC type-approval mark or reference mark, as applicable):

3. **Instructions**
 - 3.1. List of vehicles to which the device is intended to be fitted:
 - 3.2. Description of the method of installation illustrated by photographs and/or drawings:
 - 3.3. Instructions for use:
 - 3.4. Instructions for maintenance, if any:

ANNEX III

EEC TYPE-APPROVAL CERTIFICATES

Appendix i

MODEL

(maximum format: A4 (210 x 297 mm))

EEC TYPE-APPROVAL CERTIFICATE

Stamp of administration

Communication concerning the:

- type-approval ⁽¹⁾
- extension of type-approval ⁽¹⁾
- refusal of type-approval ⁽¹⁾
- withdrawal of type-approval ⁽¹⁾

of a type of a vehicle/component/separate technical unit ⁽¹⁾ with regard to Directive . . . /EEC, as last amended by Directive . . . /EEC.

Type-approval number:

Reason for extension:

SECTION I

- 0.1. Make (trade name of manufacturer):
- 0.2. Type and general commercial description(s):
- 0.3. Means of identification of type if marked on the vehicle/component/separate technical unit ⁽¹⁾ ⁽²⁾:
 - 0.3.1. Location of that marking:
- 0.4. Category of vehicle ⁽³⁾:
- 0.5. Name and address of manufacturer:
- 0.7. In the case of components and separate technical units, location and method of affixing of the EEC type-approval mark:
- 0.8. Address(es) of assembly plant(s):

SECTION II

1. Additional information (where applicable): See addendum
2. Technical service responsible for carrying out the tests:
3. Date of test report:
4. Number of test report:
5. Remarks (is any): See addendum
6. Place:

⁽¹⁾ Delete where not applicable.⁽²⁾ If the means of identification of type contains characters not relevant to describe the vehicle, component or separate technical unit types covered by this type-approval certificate such characters shall be represented in the documentation by the symbol: '?' (e.g. ABC??123??).⁽³⁾ As defined in Annex II A to Directive 70/156/EEC.

7. Date:
8. Signature:
9. The index to the information package lodged with the approval authority, which may be obtained on request, is attached.

Addendum to EEC type-approval certificate No ...

concerning the type-approval of a vehicle with regard to Directive 74/61/EEC, as last amended by Directive .../.../EEC

1. Additional information
 - 1.1. Brief description of the device(s) against unauthorized use and the vehicle parts on which it (they) act(s):
 - 1.2. Brief description of the immobilizer:
 - 1.3. Brief description of the alarm system, if applicable, including rated supply voltage ⁽¹⁾:
5. Remarks

⁽¹⁾ To be indicated only for vehicle alarm systems (VAS) to be used in vehicles whose rated supply voltage is not 12 volts.

Appendix 2

MODEL

(maximum format: A4 (210 × 297 mm))

EEC TYPE-APPROVAL CERTIFICATE

Stamp of administration

Communication concerning the:

- type-approval ⁽¹⁾
- extension of type-approval ⁽¹⁾
- refusal of type-approval ⁽¹⁾
- withdrawal of type-approval ⁽¹⁾

of a type of a vehicle/component/separate technical unit ⁽¹⁾ with regard to Directive . . . /EC, as last amended by Directive . . . /EC.

Type-approval number:

Reason for extension:

SECTION I

- 0.1. Make (trade name of manufacturer):
- 0.2. Type and general commercial description(s):
- 0.3. Means of identification of type if marked on the vehicle/component/separate technical unit ⁽¹⁾ ⁽²⁾:
 - 0.3.1. Location of that marking:
- 0.4. Category of vehicle ⁽³⁾:
- 0.5. Name and address of manufacturer:
- 0.7. In the case of components and separate technical units, location and method of affixing of the EEC type-approval mark:
- 0.8. Address(es) of assembly plant(s):

SECTION II

1. Additional information (where applicable): See addendum
2. Technical service responsible for carrying out the tests:
3. Date of test report:
4. Number of test report:
5. Remarks (if any): See addendum
6. Place:

⁽¹⁾ Delete where not applicable.

⁽²⁾ If the means of identification of type contains characters not relevant to describe the vehicle, component or separate technical unit types covered by this type-approval certificate such characters shall be represented in the documentation by the symbol: '?' (e.g. ABC??123??).

⁽³⁾ As defined in Annex II A to Directive 70/156/EEC.

7. Date:
8. Signature:
9. The index to the information package lodged with the approval authority, which may be obtained on request, is attached.

Addendum to EEC type-approval certificate No ...

concerning the type-approval as separate technical unit of a vehicle immobilizer with regard to Directive 74/61/EEC, as last amended by Directive ... J. . JEC

1. Additional information
 - 1.1. Trade name or mark of the immobilizer:
 - 1.2. Type of immobilizer:
 - 1.3. Brief description of the immobilizer:
 - 1.4. List of vehicles to which the immobilizer is intended to be fitted:
 - 1.5. Types of vehicle on which the immobilizer has been tested:
 - 1.6. List of main components, duly identified, comprising the immobilizer:
5. Remarks

Appendix 3

MODEL

(maximum format: A4 (210 × 297 mm))

EEC TYPE-APPROVAL CERTIFICATE

Stamp of Administration

Communication concerning the:

- type-approval ⁽¹⁾
- extension of type-approval ⁽¹⁾
- refusal of type-approval ⁽¹⁾
- withdrawal of type-approval ⁽¹⁾

of a type of a vehicle/component/separate technical unit ⁽¹⁾ with regard to Directive .../.../EC, as last amended by Directive .../.../EC.

Type-approval number:

Reason for extension:

SECTION I

- 0.1. Make (trade name of manufacturer):
- 0.2. Type and general commercial description(s):
- 0.3. Means of identification of type if marked on the vehicle/component/separate technical unit ⁽¹⁾ ⁽²⁾:
 - 0.3.1. Location of that marking:
- 0.4. Category of vehicle ⁽³⁾:
- 0.5. Name and address of manufacturer:
- 0.7. In the case of components and separate technical units, location and method of affixing of the EEC type-approval mark:
- 0.8. Address(es) of assembly plant(s):

SECTION II

1. Additional information (where applicable): See addendum
2. Technical service responsible for carrying out the tests
3. Date of test report:
4. Number of test report:
5. Remarks (if any): See addendum
6. Place:

⁽¹⁾ Delete where not applicable.

⁽²⁾ If the means of identification of type contains characters not relevant to describe the vehicle, component or separate technical unit types covered by this type-approval certificate such characters shall be represented in the documentation by the symbol: "?" (e.g. ABC??123??).

⁽³⁾ As defined in Annex II A to Directive 70/156/EEC.

7. Date:
8. Signature:
9. The index to the information package lodged with the approval authority, which may be obtained on request, is attached.

Addendum to EEC type-approval certificate No ...

concerning the type-approval as separate technical unit of a vehicle alarm system with regard to Directive 74/61/EEC, as last amended by Directive ... J. . JEC

1. Additional information
 - 1.1. Trade name or mark of the alarm system:
 - 1.2. Type of alarm system:
 - 1.3. Brief description of the alarm system:
 - 1.4. List of vehicles to which the alarm system is intended to be fitted:
 - 1.5. Types of vehicle on which the alarm system has been tested:
 - 1.6. List of main components, duly identified, comprising the alarm system:
 5. Remarks
-

ANNEX IV

SCOPE, DEFINITIONS AND REQUIREMENTS FOR DEVICES TO PREVENT UNAUTHORIZED USE

1. Scope

- 1.1. All vehicles of category M1 and N1 — as defined in Annex II A to Directive 70/156/EEC — must be equipped with a device to prevent unauthorized use that complies with the requirements set out in items 3 and 4.
- 1.2. The fitting of this device to vehicles of other categories is optional, but any such device fitted is required to comply with the provisions of this Annex.

2. Definitions

For the purposes of this Annex:

- 2.1. 'vehicle type' means a category of motor vehicles which do not differ in such essential respects as:
 - 2.1.1. the manufacturer's type designation;
 - 2.1.2. the arrangement and design of the vehicle component or components on which the device to prevent unauthorized use acts;
 - 2.1.3. the type of device to prevent unauthorized use;
- 2.2. 'device to prevent unauthorized use' means a system designed to prevent unauthorized normal activation of the engine or other source of main engine power of the vehicle in combination with at least one system which:
 - locks the steering;
 - locks the transmission, or
 - locks the gearshift control;
- 2.3. 'steering' means the steering control, the steering column and its accessory cladding, the steering shaft, the steering gearbox and all other components which directly affect the effectiveness of the device to prevent unauthorized use;
- 2.4. 'combination' means one of the specifically developed and constructed variations of a locking system which, when properly activated, permits operation of the locking system;
- 2.5. 'key' means any device designed and constructed to provide a method of operating a locking system which is designed and constructed to be operated only by that device;
- 2.6. 'rolling code' means an electronic code consisting of several elements the combination of which changes at random at each operation of the transmitting unit.

3. General specifications

- 3.1. The device to prevent unauthorized use shall be so designed that it is necessary to put it out of action in order to enable:
 - 3.1.1. the engine to be started by means of the normal control; and
 - 3.1.2. the vehicle to be steered, driven or moved forward under its own power.
- 3.2. The requirements of item 3.1 shall be met by the application of a single key.

- 3.3. Except in the case provided for in item 4.1.5, a system operated with a key inserted in a lock shall not permit removal of the key before the device referred to in item 3.1 has come into action or has been set to act.
- 3.4. The device to prevent unauthorized use referred to in item 3.1, and the vehicle components on which it operates, shall be so designed that it cannot rapidly and without attracting attention be opened, rendered ineffective or destroyed by, for example, the use of low-cost, easily concealed tools, equipment or fabrications readily available to the public at large.
- 3.5. The device to prevent unauthorized use shall be fitted to the vehicle as an item of original equipment (i.e. equipment installed by the vehicle manufacturer prior to first retail sale). It shall be fitted in such a way that even after removal of its housing it cannot, when in the blocked condition, be dismantled otherwise than with special tools. If it were possible to render the device to prevent unauthorized use ineffective by the removal of screws, those screws shall, unless they are of the non-removable type, be covered by parts of the blocked protective device.
- 3.6. Mechanical locking systems shall provide at least 1 000 different key combinations or a number equal to the total number of vehicles manufactured annually if less than 1 000. In vehicles of one type the frequency of occurrence of each combination shall be roughly one per 1 000.
- 3.7. Electrical/electronic locking systems, e.g. remote control, shall have at least 50 000 variants and shall incorporate rolling codes and/or have a minimum scan time of 10 days, e.g. a maximum of 5 000 variants per 24 hours for 50 000 variants minimum.
- 3.8. The key and lock shall not be visibly coded.
- 3.9. The lock shall be so designed, constructed and fitted that turning of the lock cylinder, when in the locked position, with a torque of less than 2,45 Nm is not possible with any key other than the mating key; and
- 3.9.1. for lock cylinders with pin tumblers no more than two identical tumblers operating in the same direction shall be positioned adjacent to each other, and in a lock there shall not be more than 60 % identical tumblers;
- 3.9.2. for lock cylinders with disc tumblers no more than two identical tumblers operating in the same direction shall be positioned adjacent to each other, and in a lock there shall not be more than 50 % identical tumblers.
- 3.10. Devices to prevent unauthorized use shall be such as to exclude any risk of accidental operating failure while the engine is running, particularly in the case of blockage likely to compromise safety.
- 3.10.1. It shall not be possible to activate devices to prevent unauthorized use without first setting the engine controls to a stop condition and then performing an action which is not an uninterrupted continuation of stopping the engine.
- 3.10.2. In the case of devices to prevent unauthorized use, if the action of key withdrawal activates the device it shall either necessitate a minimum movement of 2 mm before activation of the device or incorporate an override facility to prevent accidental removal or partial withdrawal of the key.
- 3.11. Power assistance may be used only to activate the locking and/or unlocking action of the device to prevent unauthorized use. The device shall be kept in its operating position by any suitable means which does not need a power supply.
- 3.12. It shall not be possible to activate the motive power of the vehicle by normal means until the device to prevent unauthorized use has been deactivated.
- 3.13. Devices to prevent unauthorized use preventing release of the brakes of the vehicle shall not be permitted.

- 3.14. If the device to prevent unauthorized use is equipped with a driver warning feature it shall be activated when the operator opens the driver's side door, unless the device has been activated and the key removed by the operator.
4. Particular specification
- In addition to the general specification prescribed in Section 3, the device to prevent unauthorized use shall meet the particular conditions prescribed below:
- 4.1. Devices to prevent unauthorized use acting on the steering
- 4.1.1. A device to prevent unauthorized use acting on the steering shall render the steering inoperative. Before the engine can be started, the normal steering operation must be restored.
- 4.1.2. When the device to prevent unauthorized use is set to act, it shall not be possible to prevent the device from functioning.
- 4.1.3. The device to prevent unauthorized use must continue to meet items 3.10, 4.1.1, 4.1.2 and 4.1.4 after it has undergone 2 500 locking cycles in each direction of the wear producing test specified in Appendix 1.
- 4.1.4. The device to prevent unauthorized use shall, in its activated position, satisfy one of the following criteria:
- 4.1.4.1. It shall be strong enough to withstand, without damage to the steering mechanism likely to compromise safety, the application of a torque of 300 Nm about the axis of the steering spindle in both directions under static conditions.
- 4.1.4.2. It shall incorporate a mechanism designed to yield or slip, such that the system will withstand, either continuously or intermittently, the application of a torque of at least 100 Nm. The locking system must still withstand the application of this torque after the test specified in Appendix 2.
- 4.1.4.3. It shall incorporate a mechanism designed to permit the steering wheel to rotate freely on the blocked steering spindle. The blocking mechanism shall be strong enough to withstand the application of a torque of 200 Nm about the axis of the steering spindle in both directions under static conditions.
- 4.1.5. If the device to prevent unauthorized use is such that the key can be removed in a position other than the position in which the steering is inoperative, it shall be so designed that the manoeuvre required to reach that position and remove the key cannot be effected inadvertently.
- 4.1.6. If a component fails such that the torque requirements specified in 4.1.4.1, 4.1.4.2 and 4.1.4.3 cannot be easily applied, yet the steering system remains blocked, the system shall satisfy the requirements.
- 4.2. Devices acting on the transmission
- 4.2.1. A device to prevent unauthorized use acting on the transmission shall prevent the rotation of the vehicle's driving wheels.
- 4.2.2. When the device to prevent unauthorized use is set to act, it shall not be possible to prevent the device from functioning.
- 4.2.3. It shall not be possible for the transmission to be blocked inadvertently when the key is in the lock of the device to prevent unauthorized use, even if the device preventing starting of the engine has come into action or been set to act.
- 4.2.4. The device to prevent unauthorized use shall be so designed and constructed that it remains fully effective even after some degree of wear as a result of 2 500 locking cycles in each direction.
- 4.2.5. If the device to prevent unauthorized use is such that the key can be removed in a position other than the position in which the transmission is locked, it shall be so designed that the manoeuvre required to reach that position and remove the key cannot be effected inadvertently.
- 4.2.6. The device to prevent unauthorized use shall be strong enough to withstand, without damage likely to compromise safety, the application in both directions and in static conditions of a torque 50 % greater than the maximum torque that can normally be applied to the transmission. In determining the level of this testing torque account shall be taken not of the maximum engine

torque, but of the maximum torque that can be transmitted by the clutch or by the automatic transmission.

4.3. Devices to prevent unauthorized use acting on the gearshift control

4.3.1. A device to prevent unauthorized use acting on the gearshift control shall be capable of preventing any change of gear.

4.3.2. In the case of manual gearboxes it must be possible to lock the gearshift lever in reverse only; in addition locking in neutral shall be permitted.

4.3.3. In the case of automatic gearboxes provided with a 'parking' position it must be possible to lock the mechanism in the parking position only; in addition locking in neutral and/or reverse shall be permitted.

4.3.4. In the case of automatic gearboxes not provided with a 'parking' position it must be possible to lock the mechanism in the following positions only: neutral and/or reverse.

4.3.5. The device to prevent unauthorized use shall be so designed and constructed that it remains fully effective even after some degree of wear as a result of 2 500 locking cycles in each direction.

5. Electromechanical and electronic devices to prevent unauthorized use

Electromechanical and electronic devices to prevent unauthorized use, where fitted, shall comply with the requirements of items 3 and 4 and item 5 of Annex V, *mutatis mutandis*.

*Appendix 1***Wear-producing test procedure for devices to prevent unauthorized use acting on the steering**

1. **Test equipment**
 - 1.1. The test equipment shall consist of:
 - 1.1.1. a fixture suitable for mounting the sample steering complete with the device to prevent unauthorized use attached, as defined in item 2.2 of Annex IV;
 - 1.1.2. a means for activating and deactivating the device to prevent unauthorized use which shall include the use of the key;
 - 1.1.3. a means for rotating the steering shaft relative to the device to prevent unauthorized use.
2. **Test method**
 - 2.1. A sample of the steering complete with the device to prevent unauthorized use is attached to the fixture referred to in item 1.1.1.
 - 2.2. One cycle of the test procedure shall consist of the following operations:
 - 2.2.1. Start position. The device to prevent unauthorized use shall be deactivated and the steering shaft shall be rotated to a position which prevents engagement of the device to prevent unauthorized use, unless it is of the type which permits locking in any position of the steering.
 - 2.2.2. Set to activate. The device to prevent unauthorized use shall be moved from the deactivated to the activated position, using the key.
 - 2.2.3. Activated ⁽¹⁾. The steering spindle shall be rotated such that the torque on it, at the instant of engagement of the device to prevent unauthorized use, shall be $40 \text{ Nm} \pm 2 \text{ Nm}$.
 - 2.2.4. Deactivated. The device to prevent unauthorized use shall be deactivated by the normal means, the torque being reduced to zero to facilitate disengagement.
 - 2.2.5. Return ⁽¹⁾. The steering spindle shall be rotated to a position which prevents engagement of the device to prevent unauthorized use.
 - 2.2.6. Opposite rotation. Repeat procedures described in items 2.2.2, 2.2.3, 2.2.4 and 2.2.5, but in the opposite direction of rotation of the steering spindle.
 - 2.2.7. The time interval between two successive engagements of the device shall be at least 10 seconds.
 - 2.3. The wear-producing cycle shall be repeated the number of times specified in item 4.1.3 of Annex IV.

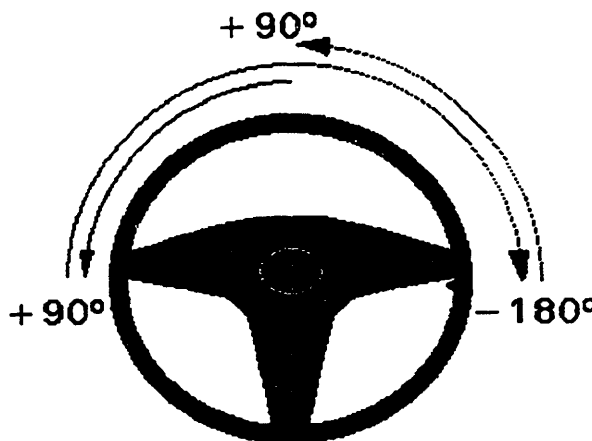
⁽¹⁾ If the device to prevent unauthorized use permits locking in any position of the steering, the procedures described in items 2.2.3 and 2.2.5 shall be omitted.

Appendix 2

Test procedure for devices to prevent unauthorized use acting on the steering using a torque limiting device

1. Test equipment
 - 1.1. The test equipment shall consist of:
 - 1.1.1. a fixture suitable for holding the relevant parts of a steering system or, if the test is carried out on a complete vehicle, a jacking system capable of lifting all the steered wheels clear of the ground; and
 - 1.1.2. a device or devices capable of producing, and measuring, a torque applied to the steering control as prescribed in item 2.3. The measurement precision must be less than or equal to 2 %.
 2. Test procedure description
 - 2.1. If the test is carried out on a complete vehicle, the test shall be carried out with all the steered wheels of the vehicle held clear of the ground.
 - 2.2. The steering lock shall be activated such that the steering is blocked.
 - 2.3. A torque shall be applied to the steering control such that it rotates.
 - 2.4. The test cycle includes a rotation of the steering control of 90° followed by a rotation in the opposite direction of 180°, and a new rotation of 90° in the original direction (see figure);

1 cycle = + 90°/-180°/+ 90° with a tolerance of ± 10 %



- 2.5. A cycle duration is equal to 20 s ± 2 s.
- 2.6. Five test cycles shall be carried out.
- 2.7. During each of the test cycles the minimum recorded value of the torque shall be higher than that given in item 4.1.4.2 of this Annex.

ANNEX V

SCOPE, DEFINITION AND REQUIREMENTS FOR IMMOBILIZERS

1. Scope

- 1.1. All category M1 vehicles must be equipped with an immobilizer.
- 1.2. Immobilizers for fitment to vehicles of other categories is optional, but any such device fitted is required to comply accordingly with the provisions of this Annex, *mutatis mutandis*.

2. Definitions

For the purposes of this Directive:

- 2.1. 'Immobilizer' means a device which is intended to prevent the driving away of a vehicle powered by its own engine.
- 2.2. 'Control equipment' means equipment necessary for the setting and/or unsetting of an immobilizer.
- 2.3. 'Status display' means any device intended to indicate the status of the immobilizer (set/unset, change of set to unset and vice versa).
- 2.4. 'Set state' means the state in which the vehicle cannot be driven under its own power.
- 2.5. 'Unset state' means the state in which the vehicle can be driven normally.
- 2.6. 'Key' means any device designed and constructed to provide a method of operating a locking system, which is designed and constructed to be operated only by that device.
- 2.7. 'Override' means a design feature which locks the immobilizer in the unset condition.
- 2.8. 'Type of immobilizer' means systems which do not differ significantly in such essential aspects as:
 - the manufacturer's trade name or mark,
 - the kind of control equipment,
 - the design of their operation on the relevant vehicle system(s) (as referred to in item 4.1).

3. General specifications

- 3.1. It must be possible to set and unset the immobilizer in accordance with these requirements.
- 3.2. If the immobilizer includes the possibility of a radio transmission, e. g. for setting or unsetting, it shall comply with the relevant ETSI standards ⁽¹⁾.
- 3.3. An immobilizer and its installation shall be so designed that any equipped vehicle continues to meet the technical requirements.

⁽¹⁾ ETSI: European Telecommunications Standards Institute. If these standards are not available when this Directive comes into force, then the relevant domestic requirements shall apply.

- 3.4. It shall not be possible for an immobilizer to enter the set state when the ignition key is in the engine running mode.
- 3.5. It shall only be possible to override an immobilizer when it is in the unset condition using a suitable key.
- 3.6. The immobilizer shall be designed and built such that when installed it shall not affect the designed function and operation of the vehicle, even in the case of malfunction.
- 3.7. An immobilizer shall be designed and built such that, when installed on a vehicle, according to the manufacturer's instructions, it cannot rapidly and without attracting attention be rendered ineffective or destroyed by, e.g. the use of low cost easily concealed tools, equipment or fabrications readily available to the public at large. It shall be difficult and time consuming to replace a major component or assembly in order to bypass the immobilizer.
- 3.8. An immobilizer shall be so designed and built such that when installed as specified by the manufacturer it is able to withstand the environment within the vehicle for a reasonable lifetime (for testing see paragraph 5). More particularly the electrical properties of the on-board circuitry shall not be adversely affected by the addition of the immobilizer (lead cross-sections, contact safety, etc.).
- 3.9. An immobilizer may be combined with other vehicle systems or may be integrated into them (e.g. engine management, alarm systems).

4. Particular specifications

4.1. Extent of disablement

- 4.1.1. An immobilizer shall be designed so as to prevent the operation of the vehicle under its own power by at least one of the following means:
 - 4.1.1.1. disable at least two separate vehicle circuits that are needed for vehicle operation under its own power (e.g. starter motor, ignition, fuel supply, etc.);
 - 4.1.1.2. interference by code of at least one control unit required for the operation of the vehicle;
- 4.1.2. An immobilizer for fitment to a vehicle equipped with a catalytic converter shall not cause unburnt fuel to enter the exhaust.

4.2. Operating reliability

Operating reliability shall be achieved by suitable design of the immobilizer, account being taken of specific environmental conditions in the vehicle (see paragraph 3.8 and 5).

4.3. Operating safety

It shall be ensured that the immobilizer does not change its state (set/unset) as a result of any of the tests in paragraph 5.

4.4. Setting of the immobilizer

- 4.4.1. The immobilizer must set without supplementary action from the driver by at least one of the following means:
 - at rotation of the ignition key into the '0' position in the ignition lock and activation of a door; in addition, immobilizers which unset immediately before or during the normal starting procedure of the vehicle are permitted to set on turning the ignition off,
 - a maximum of 5 minutes after removing the key of the ignition lock, or
 - when locking the vehicle.

4.5. Unsetting

4.5.1. Unsetting shall be achieved by using one or a combination of the following devices. Other devices giving equivalent performance are permitted.

4.5.1.1. A mechanical key, complying with requirements of Appendix 3 to Annex VI.

4.5.1.2. A key pad for inputting an individually selectable code having at least 10 000 variants.

4.5.1.3. Electrical/electronic device, e.g. remote control, with at least 50 000 variants and shall incorporate rolling codes and/or have a minimum scan time of 10 days, e.g. a maximum of 5 000 variants per 24 hours for 50 000 variants minimum.

4.6. Status display

4.6.1. To provide information on the status of the immobilizer (set/unset, change of set to unset and vice versa), optical displays inside and outside the passenger compartment are allowed. The light intensity of optical signals installed outside the passenger compartment shall not exceed 0.5 cd.

4.6.2. If an indication of short-term 'dynamic' processes such as changes from 'set' to 'unset' and vice versa is provided, it shall be optical, according to paragraph 4.6.1. Such optical indication may also be produced by the simultaneous operation of the direction indicators and/or passenger compartment lamp(s), provided that the duration of the optical indication by the direction indicators does not exceed 3 seconds.

5. Operation parameters and test conditions

5.1. Operation parameters

All components of the immobilizer shall comply with prescriptions given in point 5 of Annex VI.

This requirement does not apply to:

- those components that are fitted and tested as part of the vehicle, whether or not an immobilizer is fitted (e.g. lamps); or,
- those components that have previously been tested as part of the vehicle and documentary evidence has been provided.

5.2. Test conditions

All the tests shall be carried out in sequence on a single immobilizer. However, at the discretion of the test authority other samples may be used if this is not considered to affect the results of the other tests.

5.2.1. Operation test

Upon completion of all the tests specified below, the immobilizer shall be tested under the normal test conditions specified in paragraph 5.2.1.2. of Annex VI to check that it continues to function normally. Where necessary, fuses may be replaced prior to the test.

All components of the immobilizer shall comply with prescriptions given in points 5.2.2 to 5.2.8 and 5.2.12 of Annex VI.

6. Instructions

(Items 6.1 to 6.3 for purposes of aftermarket installation only)

Each immobilizer shall be accompanied by:

6.1. Instructions for installation

6.1.1. The list of vehicles and vehicle models for which the device is intended. This list may be specific or generic, e.g. 'all cars with petrol engines and 12 V negative earth batteries'.

- 6.1.2. The method of installation illustrated by photographs and/or very clear drawings.
- 6.1.3. Detailed installation instructions provided by the supplier shall be such that when correctly followed by a competent installer, the safety and reliability of the vehicle is not affected.
- 6.1.4. The supplied installation instructions shall identify the electrical power requirements of the immobilizer and, where relevant, shall advise an increasing of battery size.
- 6.1.5. The supplier shall provide post installation procedures for checking the vehicle. Particular attention shall be drawn to safety related features.
- 6.2. A blank installation certificate, an example of which is given in Appendix 1.
- 6.3. A general statement to the immobilizer purchaser calling his attention to the following points:
 - 6.3.1. — the immobilizer should be installed in accordance with the manufacturer's instructions;
 - 6.3.2. — the selection of a good installer is recommended (the immobilizer manufacturer may be contacted to indicate appropriate installers);
 - 6.3.3. — the installation certificate supplied with the immobilizer should be completed by the installer.
- 6.4. Instructions for use
- 6.5. Instructions for maintenance
- 6.6. A general warning regarding the dangers of making any alterations or additions to the immobilizer; such alterations and additions would automatically invalidate the certificate of installation referred to in paragraph 6.2.

Appendix 1

Model of installation certificate

I, the undersigned,

certify that the installation of the immobilizer described below has been carried out by myself pursuant to the fitting instructions supplied by the manufacturer of the system.

Description of the vehicle:

Make:

Type:

Serial Number:

Registration Number:

Description of the immobilizer:

Make:

Type:

Approval Number:

Done at: on:

Installer's full address (and stamp, if appropriate):

Signature:

Position:

ANNEX VI

SCOPE, DEFINITIONS AND REQUIREMENTS FOR VEHICLE ALARM SYSTEMS

1. Scope
 - 1.1. This Annex applies to:
 - 1.1. Part I: Vehicle alarm systems (VAS) which are intended to be permanently fitted to vehicles of category M1 ⁽¹⁾ and those of category N1 ⁽¹⁾ with a technical permissible maximum mass of not more than 2 000 kg ⁽²⁾.
 - 1.2. Part II: Vehicles of category M1 ⁽¹⁾ and those of category N1 ⁽¹⁾ with a technical permissible maximum mass of not more than 2 000 kg with regard to their alarm system(s) (AS) ⁽²⁾.
 - 1.3. If such a system is fitted to vehicles of other categories, then it must comply, *mutatis mutandis*, with the provisions of this Annex.

PART I

APPROVAL OF VEHICLE ALARM SYSTEM

2. Definitions

For the purpose of Part I of this Annex

 - 2.1. 'Vehicle alarm system' (VAS) means a system intended for installation on (a) type(s) of vehicle(s), designed to indicate intrusion into or interference with the vehicle; these systems may provide additional protection against unauthorized use of the vehicle;
 - 2.2. 'Sensor' means a device which senses a change which could be caused by intrusion into or interference with a vehicle;
 - 2.3. 'Alarm signal device' means a device indicating that intrusion into or interference has occurred;
 - 2.4. 'Control equipment' means equipment necessary for the setting, unsetting and testing of VAS and for sending an alarm condition to warning devices;
 - 2.5. 'Set' means the state of a VAS in which an alarm condition can be transmitted to warning devices;
 - 2.6. 'Unset' means the state of a VAS in which an alarm condition cannot be transmitted to warning devices;
 - 2.7. 'Key' means any device designed and constructed to provide a method of operating a locking system which is designed and constructed to be operated only by that device;
 - 2.8. 'Type of vehicle alarm system' means systems which do not differ significantly in such essential aspects as:
 - the manufacturer's trade name or mark,
 - the kind of sensor,
 - the kind of alarm signal device,
 - the kind of control equipment;

⁽¹⁾ M1 & N1 as defined in Annex B A to Directive 70/156/EEC.

⁽²⁾ Only vehicles with 12 volts electrical systems are considered.

2.9. 'Immobilizer' means a device which is intended to prevent the use of the vehicle powered by its own engine.

2.10. 'Panic Alarm' means a device which enables a person to use an alarm, installed on the vehicle, to summon assistance in an emergency.

3. General specifications

3.1. VAS shall, in the event of intrusion into or interference with a vehicle, provide an alarm signal.

The alarm signal shall be audible and in addition may include optical alarm devices, or be a radio alarm or any combination of the above.

3.2. VAS shall be designed, constructed and installed in such a way that the vehicle when equipped shall continue to comply with the relevant technical requirements, especially with regard to electromagnetic compatibility (EMC).

3.3. If the VAS includes the possibility of a radio transmission, e. g. for setting or unsetting of the alarm or for alarm transmission, it shall comply with the relevant ETSI standards. The frequency must be 433,92 MHz and the maximum radiated power 25 mW.

3.4. The installation of a VAS in a vehicle shall not be capable of influencing the vehicle's performance (in the unset state), or its safe operation.

3.5. The VAS and components thereof shall not activate inadvertently, particularly whilst the engine is in its running mode.

3.6. Failure of the VAS, or failure of its electrical supply shall not affect the safe operation of the vehicle.

3.7. The VAS, its components and the parts controlled by them shall be designed, built and installed in such a way as to minimize the risk for anyone to make them inoperative or to destroy them rapidly and without calling attention, e. g. using low-cost, easily-concealed tools, equipment or fabrications readily available to the public at large.

3.8. The means of setting and unsetting of the VAS shall be designed in such a way that it does not invalidate the requirements of Annex IV of this Directive. Electrical connections to components covered by that Annex are allowed.

3.9. The system shall be so arranged that the shorting out of any alarm signal circuit shall not render inoperative any aspects of the alarm system, other than the circuit which is shorted out.

3.10. VAS may include an immobilizer which shall comply with the requirements of Annex V.

4. Particular specifications

4.1. Protection range

4.1.1. Specific requirements

The VAS shall at least detect and signal the opening of any vehicle door, engine bonnet and luggage compartment. The failure or switching off of light sources, e. g. passenger compartment light, shall not impair the control operation.

Additional efficient sensors for information/display, e. g. of intrusions into the vehicle, e. g. passenger compartment control, window glass control, breakage of any glazed area, or of attempted vehicle theft, e. g. inclination sensor; are allowed, taking account of measures to prevent any unnecessary sounding of the alarm (= false alarm, see paragraph 4.1.2).

In so far as these additional sensors generate an alarm signal even after an intrusion has occurred (e.g. by breakage of a glazed area) or under external influences (e.g. wind), the alarm signal, activated by one of the abovementioned sensors, shall be activated not more than 10 times within the same activation period of the VAS. In this case the activation period shall be limited by the unsetting of the system as a result of the vehicle user's action.

Some kinds of additional sensors, e.g. passenger compartment control (ultrasonic, infra-red) or inclination sensor, etc., may be intentionally deactivated. In this case, separate deliberate action must be taken each time before the VAS is set. It must not be possible to deactivate the sensors while the alarm system is in a set state.

4.1.2. Safety against false alarm.

4.1.2.1. By adequate measures, e.g.:

- mechanical design and design of the electrical circuit according to conditions specific to motor vehicles,
- selection and application of operation and control principles for the alarm system and components thereof,

it shall be ensured that the VAS both in set and unset conditions, cannot cause the alarm signal to sound unnecessarily, in the event of:

- an impact on the vehicle: test specified in item 5.2.13,
- electromagnetic compatibility: tests specified in item 5.2.12,
- reduction of battery voltage by continuous discharge: test specified in item 5.2.14,
- false alarm of the passenger compartment control: test specified in item 5.2.15.

4.1.2.2. If the applicant for approval can demonstrate, e.g. by technical data, that safety against false alarm is satisfactorily ensured, the technical service responsible for conducting approval tests may not require some of the above tests.

4.2. Audible alarm

4.2.1. General

The alarm signal shall be clearly audible and recognizable and shall differ significantly from the other audible signals used in road traffic.

In addition to the original equipment audible warning device, a separate audible alarm signal device may be fitted in the area of the vehicle which is controlled by the VAS, where it shall be protected against easy, rapid access by persons.

If a separate audible alarm signal device according to item 4.2.3.1 is used, the original equipment standard audible warning device may additionally be actuated by the VAS, provided that any tampering with the standard audible warning device (generally more easily accessible) does not affect the operation of the separate audible alarm signal device.

4.2.2. Duration of the audible alarm signal:

Minimum: 25 s

Maximum: 30 s.

The audible alarm signal may sound again only after the next interference with the vehicle i. e. after the abovementioned time span (Restrictions: see items 4.1.1 and 4.1.2).

Unsetting of the alarm system shall immediately cut the alarm signal.

4.2.3. Specifications concerning the audible alarm signal.

4.2.3.1. Constant tone alarm signal device (constant frequency spectrum), e.g. horns: acoustical, etc. data according to Appendix 4 of this Annex.

Intermittent alarm signal (on/off):

Trigger frequency 2 Hz \pm 1 Hz

On time = off time \pm 10 %

- 4.2.3.2. Audible alarm signal device with frequency modulation: acoustical, etc. data according to Appendix 4 of this Annex, but equal passage of a significant frequency range within the above-mentioned range (1 800 through 3 550 Hz) in both directions.

Passage frequency $2 \text{ Hz} \pm 1 \text{ Hz}$

- 4.2.3.3. Sound level

The sound source shall be:

- either an audible warning device approved under Directive 70/388/EEC, Section 1 or a device meeting the requirements of items 1 and 2 of Appendix 4 to this Annex,
- however, in the case of a sound source different from the original equipment audible warning device, the minimum sound level may be reduced to 100 dB (A), measured under the conditions of Appendix 4 of this Annex.

- 4.3. Optical alarm — if fitted

- 4.3.1. General

In the event of intrusion into or interference with the vehicle, the device shall activate an optical alarm signal as specified in items 4.3.2 and 4.3.3.

- 4.3.2. Duration of the optical alarm signal

The optical alarm signal shall have a duration 25 s and 5 minutes after the alarm has been activated.

The unsetting of the alarm system shall immediately stop the alarm signal.

- 4.3.3. Type of optical alarm signal

Flashing of all direction indicators and/or passenger compartment light of the vehicle, including all lamps in the same electrical circuit.

Trigger frequency $2 \text{ Hz} \pm 1 \text{ Hz}$

In relation to the audible signal, also asynchronous signals are allowed.

On time = off time $\pm 10 \%$.

- 4.4. Radio alarm (pager) — if fitted

The VAS may include a facility generating an alarm signal by radio transmission.

- 4.5. Alarm system setting lock

When the engine is in its running mode, deliberate or inadvertent setting of the alarm system shall be impossible.

- 4.6. Setting and unsetting of the VAS

- 4.6.1. Setting

Any suitable means of setting of the VAS is allowed, provided that such means does not inadvertently cause false alarms.

- 4.6.2. Unsetting

Unsetting of the VAS shall be achieved by one or a combination of the following devices: (other devices giving equivalent performance are permitted.)

- 4.6.2.1. — a mechanical key (complying with requirements of Appendix 3 to this Annex) which can be coupled with a centralized vehicle locking system comprising at least 1 000 variants, operated from the outside,
- 4.6.2.2. — electrical/electronic device, e.g. remote control, with at least 50 000 variants which shall incorporate a rolling code and/or have a minimum scan time of 10 days, e.g. a maximum of 5 000 variants per 24 hours for 50 000 variants minimum,
- 4.6.2.3. — a mechanical key or an electrical/electronic device within the protected passenger compartment, with timed exit/entry delay.

4.7. Exit delay

If the switching device for setting the VAS is fitted within the protected area, an exit delay shall be provided. It shall be possible for the exit delay to be set between 15 seconds and 45 seconds after the switch has been operated. The delay period may be adjustable to suit individual operator's circumstances.

4.8. Entry delay

If the switching device for setting the VAS is fitted within the protected area, a delay of 5 seconds minimum and 15 seconds maximum shall be allowed before the activation of the audible and optical alarm signals. The delay period may be adjustable to suit individual operators circumstances.

4.9. Status display

4.9.1. To provide information on the status of the VAS (set, unset, alarm setting period, alarm has been activated), optical displays inside and outside the passenger compartment are allowed. The light intensity of optical signals installed outside the passenger compartment shall not exceed 0,5 cd.

4.9.2. If an indication of short-term 'dynamic' processes such as changes from 'set' to 'unset' and vice versa is provided, it shall be optical, according to item 4.9.1. Such optical indication may also be produced by the simultaneous operation of direction indicators and/or passenger compartment lamp(s), provided that the duration of the optical indication by direction indicators does not exceed 3 seconds.

4.10. Power supply

The source of power for the VAS may be the vehicle battery.

Where provided, an additional battery shall be rechargeable and it shall by no means supply energy to the other parts of the vehicle's electrical system.

4.11. Specifications for optional functions

4.11.1. Self-check, automatic failure indication

On setting the VAS, irregular situations, e. g. open doors, etc., may be detected by a self-check function (plausibility control), and this situation may be indicated.

4.11.2. Panic alarm

An optical and/or audible and/or radio alarm is allowed independent of the state (set or unset) and/or function of the VAS. Such an alarm shall be triggered from within the vehicle and shall not affect the state (set or unset) of the VAS. Also it must be possible for the vehicle user to switch off the panic alarm. In the case of an audible alarm, its sounding duration per activation shall not be restricted. A panic alarm shall not immobilize the engine or stop it if it is running.

5. Operation parameters and test conditions ⁽¹⁾

5.1. Operation parameters

All components of the VAS shall operate without any failure under the following conditions.

5.1.1. Climatic conditions

Two classes of environmental temperature are defined as follows:

-40 °C to +85 °C for parts to be fitted in the passenger or luggage compartment,

-40 °C to +125 °C for parts to be fitted in the engine compartment unless otherwise specified.

⁽¹⁾ Lamps which are used as part of the optical alarm devices and which are included in the standard car lighting system need not comply with the operation parameters in item 5.1 and shall not be submitted to tests listed under item 5.2.

5.1.2. Degree of protection for installation

The following degrees of protection in accordance with IEC publication 529-1989 shall be provided:

- IP 40 for parts to be fitted in the passenger compartment,
- IP 42 for parts to be fitted in the passenger compartment of roadsters/convertibles and cars with moveable roof-panels if the installation location requires a higher degree of protection than IP 40,
- IP 54 for all other parts.

The VAS manufacturer shall specify in the installation instructions any restrictions on the positioning of any part of the installation with respect to dust, water and temperature.

5.1.3. Weatherability

Seven days according to IEC 68-2-30-1980.

5.1.4. Electrical conditions

Rated supply voltage: 12 V

Operation supply voltage range: from 9 V to 15 V in the temperature range according to item 5.1.1.

Time allowance for excess voltages at 23 °C:

- U = 18 V, maximum 1 hour,
- U = 24 V, maximum 1 minute.

5.2. Test conditions

5.2.1. Operation tests

5.2.1.1. Compliance of the VAS with the following specifications shall be checked:

- alarm duration according to items 4.2.2 and 4.3.2,
- frequency and on/off ratio according to items 4.3.3 and 4.2.3.1 or 4.2.3.2 respectively,
- number of alarm cycles according to item 4.1.1, if applicable,
- alarm systems setting lock check according to item 4.5.

5.2.1.2. Normal test conditions

Voltage $U = 12 \text{ V} \pm 0,2 \text{ V}$

Temperature $T = 23 \text{ °C} \pm 5 \text{ °C}$

5.2.2. Resistance to temperature and voltage changes

Compliance with the specifications defined under item 5.2.1.1 shall also be checked under the following conditions:

5.2.2.1. Test temperature $T = -40 \text{ °C} \pm 2 \text{ °C}$

Test voltage $U = 9 \text{ V} \pm 0,2 \text{ V}$

Storage duration 4 hours

5.2.2.2. For parts to be fitted in the passenger or luggage compartment

Test temperature $T = 85 \text{ °C} \pm 2 \text{ °C}$

Test voltage $U = 15 \text{ V} \pm 0,2 \text{ V}$

Storage duration 4 hours

5.2.2.3. For parts to be fitted in the engine compartment unless otherwise specified

Test temperature $T = 125 \text{ °C} \pm 2 \text{ °C}$

Test voltage $U = 15 \text{ V} \pm 0,2 \text{ V}$

Storage duration 4 hours

5.2.2.4. The VAS, in both set and unset state, shall be submitted to an excess voltage equal to 18 V \pm 0,2 V for 1 hour.

- 5.2.2.5. The VAS, in both set and unset state, shall be submitted to an excess voltage equal to $24 \text{ V} \pm 0,2 \text{ V}$ for 1 minute.
- 5.2.3. Safe operation after foreign body and water-tightness testing
After the test for tightness for foreign body and water according to IEC 529-1989, for degrees of protection as in item 5.1.2, the operation tests according to item 5.2.1 shall be repeated.
- 5.2.4. Safe operation after condensed water test
After a resistance-to-humidity test to be carried out according to IEC 68-2-30-1980 the operation tests according to item 5.2.1 shall be repeated.
- 5.2.5. Test for safety against reversed polarity
The VAS and components thereof shall not be destroyed by reversed polarity up to 13 V during 2 minutes.
After this test the operation tests according to item 5.2.1 shall be repeated.
- 5.2.6. Test for safety against short-circuits
All electrical connections of the VAS must be short-circuit proof against earth, maximum 13 V and/or fused.
After this test the operation tests according to item 5.2.1 shall be repeated, with fuses changed if necessary.
- 5.2.7. Energy consumption in the set condition
The energy consumption in set condition under the conditions given in item 5.2.1.2 shall not exceed 20 mA for the complete alarm system including status display and immobilizer, if fitted.
- 5.2.8. Safe operation after vibration test
- 5.2.8.1. For this test, the components are subdivided into two types:
Type 1: components normally mounted on the vehicle;
Type 2: components intended for attachment to the engine.
- 5.2.8.2. The components/VAS shall be submitted to a sinusoidal vibration mode whose characteristics are as follows:
- 5.2.8.2.1. For type 1
The frequency shall be variable from 10 Hz to 500 Hz with a maximum amplitude of $\pm 5 \text{ mm}$ and maximum acceleration of 3 g (0-peak).
- 5.2.8.2.2. For type 2
The frequency shall be variable from 20 Hz to 300 Hz with a maximum amplitude of $\pm 2 \text{ mm}$ and maximum acceleration of 15 g (0-peak).
- 5.2.8.2.3. For both type 1 and type 2:
the frequency variation is 1 octave/min;
The number of cycles is 10, the test shall be performed along each of the 3 axes;
the vibrations are applied at low frequencies at a maximum constant amplitude and at a maximum constant acceleration at high frequencies.
- 5.2.8.3. During the test the VAS shall be electrically connected and the cable shall be supported after 200 mm.
- 5.2.8.4. After the vibration test the operation test according to item 5.2.1 shall be repeated.
- 5.2.9. Durability test
Under the test conditions specified in item 5.2.1.2, triggering of 300 complete alarm cycles (audible and/or optical) with a rest time of the audible device of 5 minutes.

5.2.10. Tests for external key switch (installed on the outside of the vehicle)

The following tests shall only be performed if the locking cylinder of the original equipment door lock is not used.

5.2.10.1. The key switch shall be so designed and constructed that it remains fully effective even after:

- 2 500 set/unset cycles in each direction, followed by,
- 96 hours minimum of exposure to salt spray test according to IEC 68-2-11-1981, corrosion resistance test.

5.2.11. Test of systems for the protection of the passenger compartment

The alarm shall be activated, when a vertical panel of 0,2 x 0,15 m is inserted for 0,3 m (measured from the centre of the vertical panel) through an open front door window into the passenger compartment, towards the front and parallel to the road at a speed of 0,4 m/s and at an angle of 45° with the longitudinal median plane of the vehicle. (See drawings in Appendix 2 to this Annex).

5.2.12. Electromagnetic compatibility

Vehicle alarm systems shall comply with the relevant technical requirements, especially with regard to electromagnetic compatibility (EMC).

5.2.13. Safety against false alarm in the event of an impact on the vehicle

It shall be verified that an impact of up to 4,5 Joules of a hemispherical body with 165 mm in diameter and (70 ± 10) Shore A applied anywhere to the vehicle bodywork or glazing with this curved surface does not cause false alarms.

5.2.14. Safety against false alarm in the event of a voltage reduction

It shall be verified that slow reduction of the main battery voltage by continuous discharge of 0,5 V/h down to 3 V does not cause false alarms.

Test conditions: see item 5.2.1.2.

5.2.15. Test for safety against false alarm of the passenger compartment control

Systems intended for the protection of the passenger compartment according to item 4.1.1 shall be tested together with a vehicle under normal conditions (item 5.2.1.2).

The system, installed according to the manufacturer's instructions, shall not be triggered when subjected 5 times to the test described in item 5.2.13 at intervals of 0,5 s.

The presence of a person touching or moving around the outside of the vehicle (windows closed) shall not cause any false alarm.

6. Instructions

Each VAS shall be accompanied by:

6.1. Instructions for installation:

6.1.1. The list of vehicles and vehicle models for which the device is intended. This list may be specific or generic, e. g. 'all cars with petrol engines and 12 V negative earth batteries'.

6.1.2. The method of installation illustrated by photographs and/or very clear drawings.

6.1.3. In the case of VAS which include immobilizer, additional instructions regarding compliance with requirements of Annex V are to be provided.

6.2. A blank installation certificate, an example of which is given in Appendix 1 to this Annex.

6.3. A general statement to the VAS purchaser calling his attention to the following points:

- the VAS should be installed in accordance with the manufacturer's instructions,

- the selection of a good installer is recommended (the VAS manufacturer may be contacted to indicate appropriate installers),
 - the installation certificate supplied with the VAS should be completed by the installer.
- 6.4. Instructions for use
- 6.5. Instructions for maintenance
- 6.6. A general warning regarding the danger of making any alterations or additions to the system; such alterations or additions would automatically invalidate the certificate of installation referred to in item 6.2.
- 6.7. Indication of the location(s) of the approval mark mentioned in Annex I of this Directive and/or the certificate of conformity mentioned in this Directive.

PART II

APPROVAL OF A VEHICLE WITH REGARD TO ITS ALARM SYSTEM

When a VAS approved to Part I of this Annex is being used in a vehicle submitted for approval to Part II of this Annex, tests required to be passed by a VAS in order to obtain approval to Part I of this Annex shall not be repeated.

7. **Definitions**
- For the purpose of Part II of this Annex:
- 7.1. 'Alarm system(s)' (AS) means an arrangement of components fitted as original equipment in a vehicle type, designed to indicate intrusion into or interference with the vehicle; these systems may provide additional protection against unauthorized use of the vehicle.
- 7.2. 'Vehicle type with regard to its alarm system' means vehicles which do not differ significantly in such essential aspects as:
- the manufacturer's trade name or mark,
 - vehicle features which significantly influence the performances of the AS,
 - the type and design of the AS or VAS.
- 7.3. Other definitions applicable to Part II are contained in item 2 of this Annex.
8. **General specifications**
- 8.1. As shall be designed and built in such a way that they, in the event of intrusion into or interference with a vehicle, provide an alarm signal.
- The alarm signal shall be audible and in addition may include optical alarm devices, or be a radio alarm, or any combination of the above.
- 8.2. Vehicles which are equipped with alarm systems shall comply with the relevant technical requirements, especially with regard to electromagnetic compatibility (EMC).
- 8.3. If the AS includes the possibility of a radio transmission, e. g. for setting or unsetting of the alarm or for alarm transmission, it shall comply with the relevant ETSI standards (see footnote 3 pertinent to item 3.3). The frequency must be 433,92 MHz and the maximum radiated power 25 mW.
- 8.4. The AS and components thereof shall not activate inadvertently, particularly whilst the engine is in its running mode.
- 8.5. Failure of the AS, or failure of its electrical supply, shall not affect the safe operation of the vehicle.

- 8.6. The alarm system, its components and the parts controlled by them shall be so installed as to minimize the risk for anyone to make them inoperative or to destroy them rapidly and without calling attention, e. g. using low-cost, easily-concealed tools, equipment or fabrications readily available to the public at large.
- 8.7. The system shall be so arranged that the shorting out of any alarm signal circuit shall not render inoperative any aspects of the alarm system, other than the circuit which is shorted out.
- 8.8. The AS may include an immobilizer which shall comply with the requirements of Annex V.
9. Particular specifications
- 9.1. Protection range
- 9.1.1. Specific requirements
- The AS shall at least detect and signal the opening of any vehicle door, engine bonnet and luggage compartment. The failure or switching off of light sources, e. g. passenger compartment light, shall not impair the control operation.
- The installation of additional efficient sensors for information/display, e. g.:
- of intrusions into the vehicle, e. g. passenger compartment control, window glass control, breakage of a glazed area, or
 - of attempted vehicle theft, e. g. inclination sensor,
- are allowed, taking account of measures to prevent any unnecessary sounding of the alarm (false alarm, see item 9.1.2).
- In so far as these additional sensors generate an alarm signal even after an intrusion has occurred (e. g. by breakage of a glazed area) or under external influences (e.g. wind), the alarm signal, activated by one of the abovementioned sensors, shall be activated not more than 10 times within the same activation period of the AS.
- In this case the activation period shall be limited by the unsetting of the system as a result of the vehicle user's action.
- Some kinds of additional sensors, e. g. passenger compartment control (ultrasonic, infra-red) or inclination sensor, etc., may be intentionally deactivated. In this case, separate deliberate action must be taken each time before the AS is set. It must not be possible to deactivate the sensors while the alarm system is in a set state.
- 9.1.2. Safety against false alarm
- 9.1.2.1. It shall be ensured that the AS both in set and unset conditions, cannot cause the alarm signal to sound unnecessarily, in the event of:
- an impact on the vehicle: test specified in item 5.2.13,
 - reduction of battery voltage by continuous discharge; test specified in item 5.2.14,
 - false alarm of the passenger compartment control: test specified in item 5.2.15.
- 9.1.2.2. If the applicant for approval can demonstrate, e. g. by technical data, that safety against false alarm is satisfactorily ensured, the technical service responsible for conduction approval tests may not require some of the above tests.
- 9.2. Audible alarm
- 9.2.1. General
- The alarm signal shall be clearly audible and recognizable and shall differ significantly from the other audible signals used in road traffic.
- In addition to the original equipment audible warning device, a separate audible alarm signal device may be fitted in the area of the vehicle which is controlled by the AS, where it shall be protected against easy, rapid access by persons.

If a separate audible alarm signal device according to item 9.2.3.1 below is used, the original equipment standard audible warning device may additionally be actuated by the AS, provided that any tampering with the standard audible warning device (generally more easily accessible) does not affect the operation of the separate audible alarm signal device.

9.2.2. Duration of the audible alarm signal

Minimum: 25 s

Maximum: 30 s.

The audible alarm signal may sound again only after the next interference with the vehicle, i. e. after the abovementioned time span. (Restrictions: see item 9.1.1 and 9.1.2).

Unsetting of the alarm system shall immediately cut the alarm signal.

9.2.3. Specifications concerning the audible alarm signal.

9.2.3.1. Constant tone alarm signal device (constant frequency spectrum), e. g. horns: acoustical, etc. data according to Appendix 4 of this Annex.

Intermittent alarm signal (on/off):

Trigger frequency $2 \text{ Hz} \pm 1 \text{ Hz}$

On time = off time $\pm 10 \%$

9.2.3.2. Audible alarm signal device with frequency modulation:

acoustical, etc. data according to Appendix 4 of this Annex but equal passage of a significant frequency range with the abovementioned range (1 800 through 3 550 Hz) in both directions.

Passage frequency $2 \text{ Hz} \pm 1 \text{ Hz}$

9.2.3.3. Sound level

The sound source shall be:

— either an audible warning device approved under Directive 70/388/EEC, Section 1 or a device meeting the requirements of items 1 and 2 of Appendix 4 to this Annex,

— however, in the case of a sound source different from the original equipment audible warning device, the minimum sound level may be reduced to 100 dB(A), measured under the conditions of Appendix 4 of this Annex.

9.3. Optical alarm — if fitted

9.3.1. General

In the event of intrusion into or interference with the vehicle the device shall activate an optical alarm as specified in items 9.3.2 and 9.3.3.

9.3.2. Duration of the optical alarm signal

The optical alarm signal shall have a duration between 25 s and 5 minutes after the alarm has been activated. The unsetting of the alarm system shall immediately stop the alarm signal.

9.3.3. Type of optical alarm signal

Flashing of all direction indicators and/or passenger compartment light of the vehicle including all lamps in the same electrical circuit.

Trigger frequency $2 \text{ Hz} \pm 1 \text{ Hz}$

In relation to the audible signal, also asynchronous signals are allowed.

One time = off time $\pm 10 \%$

9.4. Radio alarm (pager) — if fitted

The AS may include a facility generating an alarm signal by radio transmission.

- 9.5. Alarm system setting lock
- 9.5.1. When the engine is in its running mode, deliberate or inadvertent setting of the alarm system shall be impossible.
- 9.6. Setting and unsetting of the alarm system
- 9.6.1. Setting
- Any suitable means of setting of the AS is allowed, provided that such means does not inadvertently cause false alarms.
- 9.6.2. Unsetting
- Unsetting of the AS shall be achieved by one or a combination of the following devices.
- Other devices giving equivalent performance are permitted.
- 9.6.2.1. A mechanical key (complying with requirements of Appendix 3 to this Annex which can be coupled with a centralized vehicle locking system comprising at least 1 000 variants, operated from the outside.
- 9.6.2.2. Electrical/electronic device, e.g. remote control, with at least 50 000 variants which shall incorporate a rolling code and/or have a minimum scan time of 10 days, e.g. a maximum of 5 000 variants per 24 hours for 50 000 variants minimum.
- 9.6.2.3. A mechanical key or an electrical/electronic device within the protected passenger compartment, with time exit/entry delay.
- 9.7. Exit delay
- If the switching device for setting the AS is fitted within the protected area, an exit delay shall be provided. It shall be possible for the exit delay to be set between 15 seconds and 45 seconds after the switch has been operated. The delay period may be adjustable to suit individual operators circumstances.
- 9.8. Entry delay
- If the device for unsetting the AS is fitted within the protected area, a delay of 5 seconds minimum and 15 seconds maximum shall be allowed before the activation of the audible and optical alarm signals. The delay period may be adjustable to suit individual operators circumstances.
- 9.9. Status display
- 9.9.1. To provide information on the status of the AS (set, unset, alarm setting period alarm has been activated), the installation of optical displays is allowed inside and outside the passenger compartment. The light intensity of optical signals installed outside the passenger compartment shall not exceed 0,5 cd.
- 9.9.2. If an indication of short-term 'dynamic' processes such as changes from 'set' to 'unset' and vice versa is provided, it shall be optical, according to paragraph 9.9.1. Such optical indication may also be produced by the simultaneous operation of direction indicators and/or passenger compartment lamp(s), provided that the duration of the optical indication by direction indicators does not exceed 3 seconds.
- 9.10. Power supply
- The source of power for the AS may be the vehicle battery.
- Where provided, an additional battery shall be rechargeable and it shall by no means supply energy to the other parts of the vehicle's electrical system.
- 9.11. Specifications for optional functions
- 9.11.1. Self check, automatic failure indication
- On setting the AS, irregular situations, e.g. open doors, etc., may be detected by a self-check function (plausibility control), and this situation may be indicated.

9.11.2. **Panic alarm**

An optical and/or audible and/or radio alarm is allowed independent of the state (set or unset) and/or function of the AS. Such an alarm shall be triggered from within the vehicle and shall not affect the state (set or unset) of the AS. Also it must be possible for the vehicle user to switch off the panic alarm. In the case of an audible alarm, its sounding duration per activation shall not be restricted. A panic alarm shall not immobilize the engine or stop it if it is running.

10. **Test conditions**

All components of the VAS or AS shall be tested in accordance with procedures described in item 5.

This requirement does not apply to:

- 10.1. Those components that are fitted and tested as part of the vehicle, whether or not a VAS/AS is fitted (e. g. lamps); or
- 10.2. Those components that have previously been tested as part of the vehicle and documentary evidence has been provided.

11. **Instructions**

Each vehicle shall be accompanied by:

- 11.1. Instructions for use
- 11.2. Instructions for maintenance
- 11.3. A general warning regarding the danger of making any alterations or additions to the system.

Appendix I

Model of installation certificate

I the undersigned, ... professional installer, certify that the installation of the vehicle alarm system described below has been carried out by myself pursuant to the mounting instructions supplied by the manufacturer of the system.

Description of the vehicle:

Make:

Type:

Serial number:

Registration number:

Description of the vehicle alarm system

Make:

Type:

Approval number:

Done at: on:

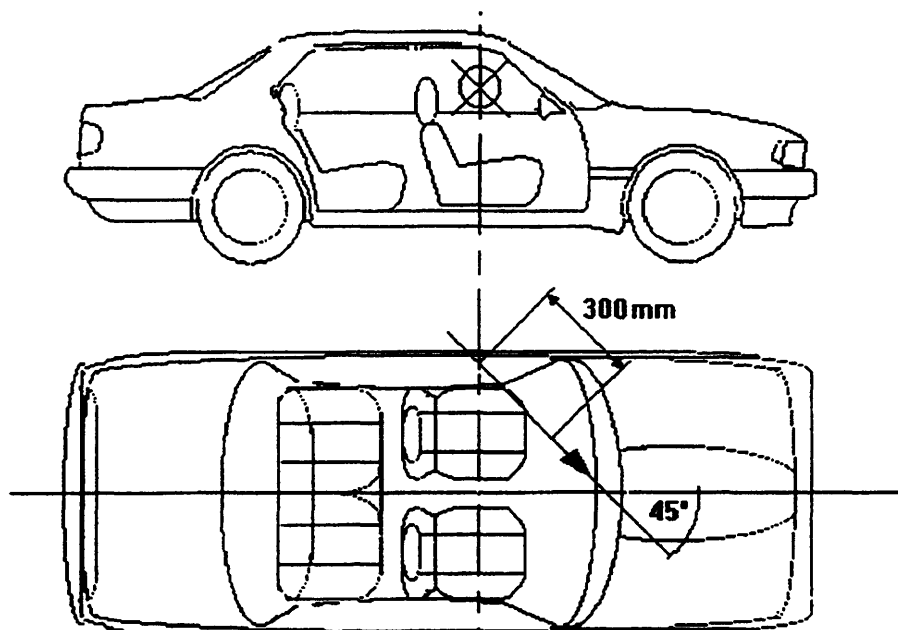
Installer's full address (and stamp, if appropriate):

Signature:
(please specify job position)

Appendix 2

Item 5.2.11

Test of systems for the protection of the passenger compartment

*Appendix 3*

Specification for mechanical key switches

1. The cylinder of the key switch shall not protrude by more than 1 mm from the cowling, and the protruding part shall be conical.
2. The joint between the cylinder core and the cylinder casing shall be capable of withstanding a tensile force of 600 N and a torque of 25 Nm.
3. The key switch shall be provided with a cylinder drill obstruction.
4. The key profile shall have at least 1 000 effective permutations.
5. The key switch shall not be operable by a key which differs by only one permutation from the key matching the key switch.
6. The key aperture to an external key switch shall be shuttered or otherwise protected against the penetration of dirt and/or water.

Appendix 4

Technical prescriptions for audible alarm devices (AAD)

1. The AAD shall emit a continuous and uniform sound, its acoustic spectrum shall not vary substantially during its operation. For AAD supplied with alternating current, this requirement shall apply only at constant generator speed, within the range specified in item 2.1.3.2.
2. The AAD shall have acoustic characteristics (spectral distribution of the acoustic energy sound pressure level) and mechanical characteristics such that it can satisfy the following tests, in the order indicated.
 - 2.1. Measurement of sound characteristics
 - 2.1.1. The AAD should, preferably, be tested in an anechoic environment. Alternatively, it may be tested in a semi-anechoic chamber or in an open space. In this case, precautions shall be taken to avoid reflections from the ground within the measuring area (for instance by erecting a set of absorbing screens). Compliance with the spherical divergence to a limit of 1 dB within a hemisphere of not less than 5 m radius, up to the maximum frequency to be measured, especially in the measuring direction and at the height of the apparatus and the microphone, shall be checked.

The ambient noise level shall be at least 10 dB lower than the sound pressure level to be measured.

The device to be tested and the microphone shall be placed at the same height. This height shall be between 1,15 and 1,25 m. The axis of maximum sensitivity of the microphone shall coincide with the direction of the maximum sound level of the device.

The microphone shall be so placed that its diaphragm is at a distance of $2 \pm 0,01$ m from the plane of the sound outlet of the device. In the case of devices with several outlets, the distance shall be determined in relation to the plane of the nearest outlet to the microphone.
 - 2.1.2. The measurements of the sound pressure levels shall be made with a class 1 precision sound level meter conforming to the specifications of IEC Publication No 651, first edition (1979).

All measurements shall be made using the time constant 'F'. The measurement of the overall sound pressure level shall be made using the weighting curve A.

The spectrum of the sound emitted shall be measured according to the Fourier transform of the acoustic signal. Alternatively one-third octave filters conforming to the specifications of IEC Publication No 225, first edition (1966) may be used:

in this case, the sound pressure level in the mid-band frequency 2 500 Hz shall be determined by adding the quadratic means of the sound pressures in the one-third mid-band frequencies 2 000, 2 500 and 3 150 Hz.

In every case, only the Fourier transform method shall be regarded as a reference method.
 - 2.1.3. The AAD shall be supplied with current, as appropriate, at the following voltages:
 - 2.1.3.1. in the case of AAD supplied with direct current, at one of the test voltages of 6,5, 13 or 26 volts measured at the terminal of the electric power source and corresponding respectively to rated voltages of 6, 12 or 24 volts;
 - 2.1.3.2. in the case of AAD supplied with alternating current, the current shall be supplied by an electric generator of the type normally used with this type of AAD. The acoustic characteristics of the AAD shall be recorded for electric generator speeds corresponding to 50 %, 75 % and 100 % of the maximum speed indicated by the manufacturer of the generator for continuous operation. During this test, no other electrical load shall be imposed on the electric generator. The endurance test described in item 3 shall be carried out at a speed indicated by the manufacturer of the equipment and selected from the above range.
 - 2.1.4. If a rectified current source is used for the tests of an AAD supplied with direct current, the alternating component of the voltage measured at its terminals, when the warning devices are in operation, shall not be more than 0,1 volt, peak to peak.

- 2.1.5. For AAD supplied with direct current, the resistance of the connecting leads, including terminals and contacts, shall be as close as possible to:
- 0,05 ohms for a 6 volt circuit,
 - 0,10 ohms for a 12 volt circuit,
 - 0,20 ohms for a 24 volt circuit.
- 2.1.6. The device shall be rigidly mounted, using the part or parts provided by the manufacturer, on a support whose mass is at least 10 times that of the device and not less than 30 kg. In addition, arrangements must be made to ensure that reflexions on the sides of the support and its own vibrations have not appreciable affect on the measuring results.
- 2.1.7. Under the conditions set forth above, the sound-pressure level weighted in accordance with curve A shall not exceed 118 dB(A).
- 2.1.7.1. In addition, the sound pressure level in the frequency band 1 800 to 3 500 Hz shall be greater than that of any component of a frequency above 3 500 Hz and in any event equal to or greater than 105 dB (A).
- 2.1.8. The specifications indicated above shall also be met by a device subjected to the endurance test referred to in item 3 below, with the supply voltage varying between 115 % and 95 % of its rated voltage for AAD supplied with direct current or, for AAD supplied with alternating current, between 50 % and 100 % of the maximum speed of the generator indicated by the manufacturer for continuous operation.
- 2.1.9. The time lapse between the moment of activation and the moment at which the sound reaches the minimum level laid down in item 2.1.7 shall not exceed 0,2 seconds, measured in an ambient temperature of 20 ± 5 °C.
- This provision shall apply in particular to pneumatically or electro-pneumatically operated devices.
- 2.1.10. Devices which are pneumatically or electro-pneumatically operated shall, with the pneumatic circuit arranged in accordance with the manufacturer's specification, have the same acoustic performance as that required for electrically operated audible AAD.
- 2.1.11. In the case of multiple-tone devices in which each sound-emitting unit is capable of functioning independently, the minimum values specified above shall be obtained when each of the constituent units is operated separately. The maximum value of the overall sound level shall not be exceeded when all the constituent units are operated simultaneously.
3. Endurance tests
- 3.1. The AAD shall be supplied with current at the rated voltage and with the connecting lead resistances specified in items 2.1.3 and 2.1.5, and operated 50 000 times, each time for one second followed by an interval of four seconds. During the test, the AAD shall be ventilated by an air current having a speed of approximately 10 m/sec.
- 3.2. If the test is carried out in an anechoic chamber, the latter shall be of sufficient volume to allow normal dispersal of the heat emitted by the device during the endurance test.
- 3.3. The ambient temperatures in the test room shall be between + 15 and + 30 °C.
- 3.4. If, after the AAD has been operated for half the number of times prescribed, the sound-level characteristics are no longer the same as before the test, the AAD may be adjusted. After being operated the prescribed number of times, and after further adjustment if necessary, the AAD must pass the test described in item 2.1.
- 3.5. For warning devices of the electro-pneumatic type, the device may be lubricated with the oil recommended by the manufacturer after every 10 000 times of the operation.
4. Approval tests
- 4.1. The tests shall be carried out on two samples of each type submitted by the manufacturer for approval; both the samples shall be subjected to all the tests and must conform to the technical specifications laid down in this Appendix.

COUNCIL DIRECTIVE 93/15/EEC

of 5 April 1993

on the harmonization of the provisions relating to the placing on the market and supervision of explosives for civil uses

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 8a of the Treaty provides that the internal market must be established not later than 31 December 1992; whereas the internal market is to comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty;

Whereas Article 100a (3) of the Treaty provides that the Commission, in its proposals concerning safety, will take as a base a high level of protection;

Whereas the free movement of goods presupposes that certain basic conditions are fulfilled; whereas, in particular, the free movement of explosives presupposes harmonization of laws on the placing of explosives on the market;

Whereas explosives for civil uses are covered by detailed national regulations, mainly in respect of safety and security requirements; whereas such national regulations provide, in particular, that marketing authorizations be granted only where explosives have satisfactorily undergone a series of tests;

Whereas harmonization of provisions governing the placing of such explosives on the market presupposes that divergent national rules will be harmonized in order to ensure the free movement of these products without lowering optimum levels of safety and security;

Whereas this Directive defines only the essential requirements which must be met by explosives conformity tests; whereas, in order to facilitate the process of demonstrating compliance with the essential requirements, it would be very useful to process standards harmonized at European level concerning, *inter alia*, methods for testing explosives; whereas such standards do not exist at present;

Whereas standards harmonized at European level are drawn up by private bodies and must retain their status as non-mandatory text; whereas, in this connection, the European Committee for Standardization (CEN) has been recognized as one of the two bodies competent to adopt harmonized standards in accordance with the general guidelines for cooperation between the Commission and CEN and Cenelec, ratified on 13 November 1984; whereas, for the purposes of this Directive, 'harmonized standard' means a text setting out technical specifications adopted by CEN under a mandate conferred by the Commission, in accordance with Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽⁴⁾ and in keeping with the abovementioned general guidelines;

Whereas the Council, in its Decision 90/683/EEC of 13 December 1990 concerning the modules for the various phases of the conformity assessment procedures which are intended to be used in the technical harmonization directives ⁽⁵⁾, introduced harmonized means of applying procedures for conformity assessment; whereas the application of these modules to explosives will make it possible to determine the responsibility of manufacturers and of bodies responsible for applying procedures for conformity assessment by taking account of the nature of the explosives concerned;

Whereas, as regards safety, the rules concerning the transport of explosives are covered by international conventions and agreements; whereas, at international level, there are United Nations recommendations on the transport of dangerous goods (including explosives), the scope of which extends beyond the Community framework; whereas, in consequence, this Directive does not concern the transport rules;

⁽¹⁾ OJ No C 121, 13. 5. 1992, p. 19.

⁽²⁾ OJ No C 305, 23. 11. 1992, p. 128; and OJ No C 115, 26. 4. 1993.

⁽³⁾ OJ No C 313, 30. 11. 1992, p. 13.

⁽⁴⁾ OJ No L 109, 26. 4. 1983, p. 8. Directive as last amended by Commission Decision 90/230/EEC (OJ No L 128, 18. 5. 1990, p. 15).

⁽⁵⁾ OJ No L 380, 31. 12. 1990, p. 13.

Whereas, pyrotechnical articles require appropriate measures to ensure the protection of consumers and the safety of the public; whereas an additional directive is planned in this field;

Whereas the definition of the products covered by this Directive should be based on the definition of such products as set out in the abovementioned recommendations;

Whereas the scope of this Directive covers ammunition, but only as regards the rules governing controls on transfers and the associated arrangements; whereas, since ammunition is transferred under conditions similar to those under which arms are transferred, transfers of ammunition should be governed by provisions similar to those applicable to arms, as set out in Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons ⁽¹⁾;

Whereas the health and safety of workers producing or using explosives must also be protected; whereas an additional directive is in the course of preparation covering, *inter alia*, the health and safety of workers engaged in activities relating to the manufacture, storage and use of explosives;

Whereas it is appropriate in the case of a serious threat to, or attack on, public safety by reason of the illicit possession or use of explosives or ammunition falling within this Directive, to allow Member States to derogate, under certain conditions, from the provisions of this Directive with regard to transfer;

Whereas, finally, it is essential to establish administrative cooperation mechanisms; whereas it is appropriate in this connection for the competent authorities to base their approach on Council Regulation (EEC) No 1468/81 of 19 May 1981 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs or agricultural matters ⁽²⁾;

Whereas this Directive does not affect the power of Member States to take measures with a view to preventing illegal trade in explosives and ammunition,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

General provisions

Article 1

1. This Directive shall apply to explosives as defined in paragraph 2.
2. 'Explosives' shall mean the materials and articles considered to be such in the United Nations recommendations on the transport of dangerous goods and falling within Class 1 of those recommendations.
3. This Directive shall not apply to:
 - explosives, including ammunition, intended for use, in accordance with national law, by the armed forces or the police,
 - pyrotechnical articles,
 - ammunition, except as provided in Articles 10, 11, 12, 13, 17, 18 and 19.
4. For the purposes of this Directive:
 - 'United Nations recommendations' shall mean the recommendations laid down by the United Nations Committee of Experts on the Transport of Dangerous Goods, as published in the UN (Orange Book) and as amended by the date when this Directive is adopted,
 - 'safety' shall mean the prevention of accidents and, where prevention fails, the containment of their effects,
 - 'security' shall mean the prevention of use contrary to law and order,
 - 'dealer' shall mean any natural or legal person whose occupation consists wholly or partly in the manufacture, trade, exchange, hiring out, repair or conversion of fire arms and ammunition,
 - 'approval' shall mean the decision taken to allow envisaged transfers of explosives within the Community,
 - 'undertaking in the explosives sector' shall mean any natural or legal person possessing a licence or authorization which entitles him to engage in the manufacture, storage, use, transfer or trade in explosives,
 - 'placing on the market' shall mean any first disposal against payment or free of charge of explosives covered by this Directive with a view to their distribution and/or use on the Community market,

⁽¹⁾ OJ No L 256, 13. 9. 1991.

⁽²⁾ OJ No L 144, 2. 6. 1981, p. 1. Regulation as amended by Regulation (EEC) No 945/87 (OJ No L 90, 2. 4. 1987, p. 4.)

— 'transfer' shall mean any physical movement of explosives within Community territory apart from movements within one and the same site.

5. This Directive shall not prevent Member States from designating certain substances not covered by this Directive as explosives under national law or regulations.

CHAPTER II

Harmonization of laws relating to explosives

Article 2

1. Member States may not prohibit, restrict or hinder the placing on the market of explosives which fall within the scope of this Directive and which satisfy the requirements of this Directive.

2. Member States shall take the necessary measures to ensure that explosives falling within the scope of this Directive may be placed on the market only if they comply with all the provisions of this Directive, are provided with the CE marking described in Article 7 and their conformity has assessed in accordance with the procedures referred to in Annex II.

3. Where explosives falling within the scope of this Directive are subject to other Directives which cover other aspects and prescribe the fixing of the CE marking, this marking shall indicate that the abovementioned products are also presumed to conform to the provisions of these other directives which apply to them.

Article 3

Explosives falling within the scope of this Directive must comply with the essential safety requirements set out in Annex I which apply to them.

Article 4

1. Member States shall consider explosives falling within the scope of this Directive which comply with the relevant national standards transposing the harmonized standards the references of which have been published in the *Official Journal of the European Communities* to be in conformity with the essential safety requirements referred to in Article 3. Member States shall publish the references of the national standards transposing those harmonized standards.

2. The Commission will give specific details of the work conducted in the field of harmonized standards in the framework of the report submitted to the European Parliament and the Council on the application of Directive 83/189/EEC and provided for in Article 11 (2) of that Directive.

Article 5

Where a Member State or the Commission considers that the harmonized standards referred to in Article 4 do not fully satisfy the essential requirements referred to in Article 3, the Commission or the Member State concerned shall bring the matter before the Standing Committee set up by Directive 83/189/EEC, giving its reasons. The Committee shall deliver its opinion without delay.

In the light of the Committee's opinion the Commission shall inform the Member States of the measures to be taken regarding the standards and the publication referred to in Article 4.

Article 6

1. The procedures for the attestation of the conformity of explosives shall be either:

- (a) EC type examination (Module B) referred to in Annex II (1), and, at the choice of the manufacturer, either:
- the type conformity (Module C) referred to in Annex II (2),
 - or the production quality assurance procedure (Module D) referred to in Annex II (3),
 - or the product quality assurance procedure (Module E) referred to in Annex II (4),
 - or the product verification (Module F) referred to in Annex II (5); or
- (b) the unit verification (Module G) referred to in Annex II (6).

2. Member States shall inform the Commission and the other Member States of the bodies which they have appointed to carry out the procedures for assessing the conformity referred to above together with the specific tasks which these bodies have been appointed to carry out and the identification numbers assigned to them beforehand by the Commission.

The Commission shall publish in the *Official Journal of the European Communities* a list of the notified bodies and their identification numbers and the tasks for which they have been notified. The Commission shall ensure that this list is kept up to date.

Member States shall apply the minimum criteria set out in Annex III for the assessment of bodies of which the Commission is to be notified. Bodies which meet the assessment criteria laid down by the relevant harmonized standards shall be presumed to satisfy the relevant minimum criteria.

A Member State which has notified the Commission of a given body shall withdraw the notification if it discovers that that body no longer meets the criteria referred to in the second subparagraph. It shall immediately inform the other Member States and the Commission accordingly.

Article 7

1. The CE marking of conformity shall be affixed in such a way as to be visible, easily legible and indelible on the explosives themselves or, if this is not possible, on an identification plate attached thereto or, in the last resort, if the first two methods cannot be used, on the packaging. The identification plate must be so designed as to make its reuse impossible.

The model to be used for the CE marking shall be that reproduced in Annex IV.

2. It shall be prohibited to affix on explosives any mark or inscription which may confuse third persons as to the meaning and style of writing of the CE marking. Any other mark may be affixed on explosives provided the visibility and legibility of the CE marking is not impaired.

3. Without prejudice to the provisions of Article 8:

(a) where a Member State establishes that the CE marking has been unduly affixed, the manufacturer, his agent or, failing these, the person responsible for placing the product in question on the Community market shall be obliged to restore the product to conformity with regard to the provisions on marking and end the infringement under conditions imposed by the Member States;

(b) where non-compliance continues, the Member State must take all appropriate measures to restrict or prohibit the placing on the market of the product in question or to ensure that it is withdrawn from the market in accordance with the procedures laid down in Article 8.

Article 8

1. Where a Member State establishes that an explosive bearing CE conformity marking and being used for its intended purpose may compromise safety, it shall take all interim measures necessary to withdraw the explosive from the market or prohibit its being placed on the market or its freedom of movement.

The Member State shall immediately inform the Commission of such measures, indicating the reasons for its measures and, in particular, whether non-conformity is the result of:

- non-compliance with essential requirements,
- incorrect application of standards, or
- a shortcoming in the standards.

2. The Commission shall consult the parties concerned as soon as possible. Where the Commission establishes, after consultation, that the measures are justified, it shall immediately inform the Member State which took the initiative, as well as the other Member States. Where the Commission establishes, after consultation, that the measures are unjustified, it shall immediately inform the Member State which took the decision.

In the particular case where the measures referred to in paragraph 1 are based on a shortcoming in the standards, the Commission shall first consult the parties concerned and then within two months bring the matter before the Standing Committee set up by Directive 83/189/EEC if the Member State which took the measures intends to maintain them and initiates the procedures referred to in Article 5.

3. Where CE conformity marking is borne by an explosive which does not comply with the requirements, the competent Member State shall take appropriate measures in respect of the person who affixed the marking and shall inform the Commission and the other Member States.

CHAPTER III

Provisions governing the supervision of transfers in the Community

Article 9

1. Explosives covered by this Directive may be transferred only in accordance with the following paragraphs.

2. Controls performed pursuant to Community law or national law in the event of transfers of the explosives governed by this Article shall no longer be performed as internal frontier controls but solely as part of the normal control procedures applied in a non-discriminatory fashion throughout the territory of the Community.

3. Approval to transfer explosives shall be obtained by the consignee from the recipient competent authority. The competent authority shall verify that the consignee is legally authorized to acquire explosives and that he is in possession of the necessary licences or authorizations. The person responsible for the transfer must notify the competent authorities of the transit Member State or Member States of movements of explosives through this or these States, whose approval shall be required.

4. Where a Member State considers that there is a problem regarding the verification of the entitlement to acquire explosives referred to in paragraph 3, that Member State shall forward the available information on the subject to the Commission which will put the matter before the Committee provided for in Article 12 without delay.

5. Where the recipient competent authority approves a transfer, it shall issue to the consignee a document which includes all the information referred to in paragraph 7. Such a document must accompany the explosives until they arrive at their stated destination. It must be produced at the request of the relevant competent authorities. A copy of this document shall be retained by the consignee who shall present it for examination by the recipient competent authority, at the latter's request.

6. Where the competent authority of a Member State considers that special security requirements such as those referred to in paragraph 5 are unnecessary, explosives can be transferred on their territory or part thereof without prior provision of information within the meaning of paragraph 7. The recipient competent authority shall then grant an approval for a fixed period and liable to suspension or withdrawal at any time on the basis of a reasoned justification. The document referred to in paragraph 5, which must accompany the explosives until they arrive at their destination, shall refer solely to the abovementioned approval.

7. Where transfers of explosives must be specially supervised in order to comply with special security requirements in the territory or part of the territory of a Member State, prior to the transfer the following information shall be provided by the consignee to the recipient competent authority:

- the names and addresses of the operators concerned; this information must be detailed enough to enable the operators to be contacted and confirmation to be obtained that the persons in question are legally entitled to receive the consignment,
- the number and quantity of the explosives being transferred,
- a full description of the explosive in question and of the means of identification, including the United Nations identification number,
- where the explosives are to be placed on the market, information on compliance with conditions for placing on the market,
- the means of transfer and the itinerary,
- the expected dates of departure and arrival,
- where necessary, the precise points of entry to and exit from Member States.

Recipient competent authorities shall examine the conditions under which the transfer may take place, with particular regard to the special security requirements. If the special security requirements are satisfied, approval for the transfer shall be granted. In the event of transit through the territory of other Member States, those States shall likewise examine and approve, in the same conditions, the particulars concerning the transfer.

8. Without prejudice to the normal checks which the Member State of departure shall carry out in its territory, at the request of the competent authorities concerned, the consignees and the operators concerned in the explosives sector shall forward to the authorities of the Member State of departure and to those of the Member State of transit all relevant information they possess concerning the transfer of explosives.

9. No supplier may transfer explosives unless the consignee has obtained the necessary authorizations for the transfer in accordance with the provisions of paragraphs 3, 5, 6 and 7.

Article 10

1. Ammunition may be transferred from one Member State to another only in accordance with the procedure laid down in the following paragraphs. These provisions shall also apply to transfers of ammunition under mail-order sales.

2. Where ammunition is to be transferred to another Member State the person concerned shall, before any dispatch, communicate to the Member State in which that ammunition is located:

- the names and addresses of the person selling or transferring the ammunition, of the person purchasing or acquiring the ammunition and, where appropriate, of the owner,
- the address to which the ammunition is to be consigned or transported,
- the quantity of ammunition to be consigned or transported,
- data making it possible to identify the ammunition and also an indication that the ammunition has undergone a check in accordance with the Convention of 1 July 1969 on the Reciprocal Recognition of Proofmarks on Small Arms,
- the means of transfer,
- the date of departure and the estimated date of arrival.

The information referred to in the last two indents need not be supplied in the event of a transfer between dealers. The Member State shall examine the conditions under which the transfer is to be carried out, in particular with regard to security. Where the Member State authorizes such a transfer it shall issue a licence incorporating all the

particulars referred to in the first subparagraph. That licence shall accompany the ammunition until it reaches its destination; it shall be produced whenever so required by the competent authorities of the Member States.

3. Each Member State may grant dealers the right to effect transfers of ammunition from its territory to a dealer established in another Member State without the prior authorization referred to in paragraph 2. To that end it shall issue an authorization valid for three years which may at any time be suspended or cancelled by reasoned decision. A document referring to that authorization must accompany the ammunition until it reaches its destination. It must be produced whenever so required by the competent authorities of the Member States.

Before effecting the transfer, the dealer shall communicate to the authorities of the Member State from which the transfer is to be effected all the particulars listed in the first subparagraph of paragraph 2.

4. Each Member State shall supply the other Member States with a list of the ammunition the transfer of which to its territory may be authorized without its prior consent.

Such lists of ammunition shall be communicated to dealers who have obtained approval for transferring ammunition without prior authorization under the procedure laid down in paragraph 3.

5. Each Member State shall communicate all useful information at its disposal concerning definitive transfers of ammunition to the Member State, to the territory of which such a transfer has been effected.

All information that Member States receive by way of the procedures laid down in this Article shall be communicated, not later than the time of the relevant transfers, to the Member States of destination and, where appropriate, not later than the time of transfer to the Member States of transit.

Article 11

By derogation from Article 9 (3), (5), (6) and (7), and from Article 10, a Member State, in case of grave threats to, or attacks upon, public security through the illicit possession or use of explosives or ammunition covered by the Directive, may take all necessary measures concerning transfers of explosives or ammunition in order to prevent such illicit possession or use.

These measures shall respect the principle of proportionality. They must constitute neither a means of arbitrary discrimination nor a veiled restriction in trade between Member States.

Each Member State which adopts such measures shall notify the Commission of them forthwith; the Commission shall inform the other Member States thereof.

CHAPTER IV

Other provisions

Article 12

1. Member States shall set up information exchange networks for the implementation of Articles 9 and 10. They shall notify the other Member States and the Commission of the national authorities responsible for forwarding or receiving information and for applying the procedures referred to in the said Articles 9 and 10.

2. For the purpose of implementing this Directive, the provisions of Regulation (EEC) No 1468/81, in particular those relating to confidentiality, shall apply *mutatis mutandis*.

Article 13

1. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The committee shall examine any matter concerning the application of this Directive raised by its chairman either on his own initiative or at the request of a representative of a Member State.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission shall defer application of the measures which it has decided for three months from the date of communication.

The Council, acting by a qualified majority, may take a different decision within the period referred to in the second subparagraph.

3. The procedure laid down in paragraph 2 shall be followed in particular to take account of any future amendments to the United Nations recommendations.

Article 14

Member States shall keep at the disposal of the other Member States and the Commission updated information concerning undertakings in the explosives sector possessing licences or authorizations as referred to in Article 1 (4).

Member States shall ascertain whether such undertakings possess a system for keeping track of explosives such that those holding explosives can be identified at any time. The conditions for the application of this subparagraph shall be adopted in accordance with the committee procedure provided for in Article 13.

Undertakings in the explosives sector shall keep such records of their transactions as are necessary to fulfil the obligations set out in this Article.

The documents referred to in this Article must be kept for at least three years after the end of the calendar year in which the recorded transaction took place, even if the undertaking has ceased trading. They must be immediately available for inspection at the request of the competent authorities.

Article 15

Member States shall ensure that explosives are properly marked.

Article 16

When a Member State issues a licence or authorization for the purpose of allowing an explosives manufacturing activity to be exercised, it shall check in particular that the persons responsible are capable of complying with the technical commitments they assume.

CHAPTER V

Final provisions

Article 17

Each Member State shall determine the penalties to be applied for infringement of the provisions adopted in implementation of this Directive. The penalties shall be sufficient to promote compliance with those provisions.

Article 18

Each Member State shall adopt, in the context of its national law, the necessary measures to enable the competent authorities to seize any product coming within the scope of this Directive if there is sufficient evidence that that product will be illicitly acquired, used or dealt in.

Article 19

1. Member States shall bring into force the provisions necessary to comply with Articles 9, 10, 11, 12, 13 and 14 before 30 September 1993.

2. Member States shall adopt and publish before 30 June 1994 the laws, regulations and administrative provisions necessary to comply with the provisions other than those mentioned in paragraph 1. They shall forthwith inform the Commission thereof.

They shall apply these provisions as from 1 January 1995.

3. When Member States adopt the provisions referred to in paragraphs 1 and 2 those provisions shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be determined by the Member States.

4. However, during the period up to 31 December 2002, Member States shall allow the placing on the markets of explosives complying with the national regulations in force in their territory before 31 December 1994.

5. Member States shall communicate to the Commission the provisions of national law which they adopt in the field governed by this Directive.

Article 20

This Directive is addressed to the Member States.

Done at Luxembourg, 5 April 1993.

For the Council

The President

J. TRØJBORG

ANNEX I

ESSENTIAL SAFETY-REQUIREMENTS

I. General requirements

1. Each explosive must be designed, manufactured and supplied in such a way as to present a minimal risk to the safety of human life and health, and to prevent damage to property and the environment under normal, foreseeable conditions, in particular as regards the safety rules and standard practices including until such time as it is used.
2. Each explosive must attain the performance characteristics specified by the manufacturer in order to ensure maximum safety and reliability.
3. Each explosive must be designed and manufactured in such a way that when appropriate techniques are employed it can be disposed of in a manner which minimizes effects on the environment.

II. Special requirements

1. As a minimum, the following information and properties — where appropriate — must be considered. Each explosive should be tested under realistic conditions. If this is not possible in a laboratory, the tests should be carried out in the conditions in which the explosive is to be used.
 - (a) Construction and characteristic properties, including chemical composition, degree of blending and, where appropriate, dimensions and grain size distribution.
 - (b) The physical and chemical stability of the explosive in all environmental conditions to which it may be exposed.
 - (c) Sensitiveness to impact and friction.
 - (d) Compatibility of all components as regards their physical and chemical stability.
 - (e) The chemical purity of the explosive.
 - (f) Resistance of the explosive against influence of water where it is intended to be used in humid or wet conditions and where its safety or reliability may be adversely affected by water.
 - (g) Resistance to low and high temperatures, where the explosive is intended to be kept or used at such temperatures and its safety or reliability may be adversely affected by cooling or heating of a component or of the explosive as a whole.
 - (h) The suitability of the explosive for use in hazardous environments (e.g. environment endangered by firedamp, hot masses, etc.) if it is intended to be used under such conditions.
 - (i) Safety features intended to prevent untimely or inadvertent initiation or ignition.
 - (j) The correct loading and functioning of the explosive when used for its intended purpose.
 - (k) Suitable instructions and, where necessary, markings in respect of safe handling, storage, use and disposal in the official language or languages of the recipient Member State.
 - (l) The ability of the explosive, its covering or other components to withstand deterioration during storage until the 'use by' date specified by the manufacturer.
 - (m) Specification of all devices and accessories needed for reliable and safe functioning of the explosive.
2. The various groups of explosives must at least also comply with the following requirements:
 - A. *Blasting explosives*
 - (a) The proposed method of initiation must ensure safe, reliable and complete detonation or deflagration as appropriate, of the blasting explosive. In the particular case of black powder, it is the capacity as regards deflagration which shall be checked.

- (b) Blasting explosives in cartridge form must transmit the detonation safely and reliably from one end of the train of cartridges to the other.
 - (c) The gases produced by blasting explosives intended for underground use may contain carbon monoxide, nitrous gases, other gases, vapours or airborne solid residues only in quantities which do not impair health under normal operating conditions.
- B. Detonating cords, safety fuses, igniter cords and shock tubes**
- (a) The covering of detonating cords, safety fuses and igniter cords must be of adequate mechanical strength and adequately protect the explosive filling when exposed to normal mechanical stress.
 - (b) The parameters for the burning times of safety fuses must be indicated and must be reliably met.
 - (c) Detonating cords must be capable of being reliably initiated, be of sufficient initiation capability and comply with requirements as regards storage even in particular climatic conditions.
- C. Detonators (including delay detonators) and relays**
- (a) Detonators must reliably initiate the detonation of the blasting explosives which are intended to be used with them under all foreseeable conditions of use.
 - (b) Relays must be capable of being reliably initiated.
 - (c) The initiation capability must not be adversely affected by humidity.
 - (d) The delay times of delay detonators must be sufficiently uniform to ensure that the probability of overlapping of the delay times of adjacent time steps is insignificant.
 - (e) The electrical characteristics of electric detonators must be indicated on the packaging (e.g. no-fire current, resistance, etc.).
 - (f) The wires of electric detonators must be of sufficient insulation and mechanical strength including the solidity of the link to the detonator, taking account of their intended use.
- D. Propellants and rocket propellants**
- (a) These materials must not detonate when used for their intended purpose.
 - (b) Propellants where necessary (e.g. those based on nitrocellulose) must be stabilized against decomposition.
 - (c) Solid rocket propellants, when in compressed or cast form, must not contain any unintentional fissures or gas bubbles which dangerously affect their functioning.

ANNEX II

1. MODULE B: EC type-examination

1. This module describes that part of the procedure by which a notified body ascertains and attests that an example, representative of the production envisaged, meets the relevant provisions of the Directive.

2. The application for EC type-examination is lodged by the manufacturer or his authorized representative established within the Community with a notified body of his choice.

The application must include:

- the name and address of the manufacturer and, if the application is lodged by the authorized representative, the name and address in addition,
- a written declaration that the same application has not been lodged with any other notified body,
- the technical documents, as described in Section 3.

The applicant must place at the disposal of the notified body an example representative of the production envisaged, hereinafter called 'type'. The notified body may request further examples if needed for carrying out the test programme.

3. The technical documents must enable the conformity of the appliance with the requirements of the Directive to be assessed. They must, as far as is relevant for such assessment, cover the design, manufacture and operation of the appliance and contain as far as is relevant for assessment:

- a general type-description,
- conceptual design and manufacturing drawings and diagrams of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of the drawings and diagrams and the operation of the product,
- a list of the standards referred to in Article 4, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements of the Directive where the standards referred to in Article 5 have not been applied,
- results of design calculations made, examinations carried out, etc.,
- test reports.

4. The notified body must:

- 4.1. examine the technical documents, verify that the type has been manufactured in conformity with those documents and identify the elements which have been designed in accordance with the relevant provisions of the standards referred to in Article 4 as well as the components which have been designed without applying the relevant provisions of those standards;
- 4.2. perform or have performed the appropriate examinations and necessary tests to check whether, where the standards referred to in Article 4 have not been applied, the solutions adopted by the manufacturer meet the essential requirements of the Directive;
- 4.3. perform or have performed the appropriate examinations and necessary tests to check whether, where the manufacturer has chosen to apply the relevant standards, these have actually been applied;
- 4.4. agree with the applicant the location where the examinations and necessary tests are to be carried out.

5. Where the type meets the relevant provisions of this Directive, the notified body issues an EC type-examination certificate to the applicant. The certificate contains the name and address of the manufacturer, the conclusion of the examination and necessary data for identification of the approved type.

A list of the relevant parts of the technical documents is annexed to the certificate and a copy kept by the notified body.

If the manufacturer or his authorized representative established in the Community is refused a type certificate, the notified body must provide detailed reasons for such refusal.

Provision must be made for an appeals procedure.

6. The applicant informs the notified body that holds the technical documents concerning the EC type-examination certificate of all modifications to the approved appliance which must receive additional approval where such changes may affect the conformity with the essential requirements or the prescribed conditions for use of the product. This additional approval is given in the form of an addition to the original EC type-examination certificate.
7. Each notified body must communicate to the other notified bodies the relevant information concerning the EC type-examination certificates and additions issued and withdrawn.
8. The other notified bodies may receive copies of the EC type-examination certificates and/or their additions. The Annexes to the certificates must be kept at the disposal of the other notified bodies.
9. The manufacturer or his authorized representative established within the Community must keep with the technical documents copies of EC type-examination certificates and their additions for a period of at least 10 years after the last date of manufacture of the product concerned.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documents available is the responsibility of the person who places the product on the Community market.

2. MODULE C: Conformity to type

1. This module describes that part of the procedure whereby the manufacturer or his authorized representative established within the Community ensures and declares that the explosives concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of this Directive that apply to them. The manufacturer must affix the CE mark to each explosive and draw up a written declaration of conformity.
2. The manufacturer must take all measures necessary to ensure that the manufacturing process assures the conformity of the manufactured product with the type as described in the EC type-examination certificate with the essential safety requirements of the Directive.
3. The manufacturer or his authorized representative must keep a copy of the declaration of conformity for a period of at least 10 years after the last date of manufacture of the product concerned.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documents available is the responsibility of the person who places the product on the Community market.

4. A notified body chosen by the manufacturer must perform or have performed examinations of the product at random intervals. A suitable sample of the finished products, taken on the spot by the notified body, is examined and appropriate test, defined in the applicable standard or standards referred to in Article 4 or equivalent tests are carried out to check the conformity of the product with the requirements of the corresponding Directive. In the event of one or more samples of the products examined not conforming, the notified body must take the appropriate measures.

Under the responsibility of the notified body the manufacturer shall affix the identification symbol of that body during the manufacturing process.

3. MODULE D: Production quality assurance

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of Section 2. ensures and declares that the explosives concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of this Directive. The manufacturer affixes the CE mark to each explosive and draws up a written declaration of conformity. The CE mark is accompanied by the identification symbol of the notified body responsible for the checks referred to in Section 4.

2. The manufacturer must operate an approved quality system for production, final product inspection and testing as specified in Section 3. He is subject to the checks referred to in Section 4.

3. *Quality system*

- 3.1. The manufacturer lodges an application for assessment of his quality system with a notified body of his choice, for the explosives concerned.

The application must include:

- all relevant information for the explosive category envisaged,
- the documents concerning the quality system,
- the technical documents pertaining to the approved type and a copy of the EC type-examination certificate.

- 3.2. The quality system must ensure conformity of explosives with the type as described in the EC type-examination certificate and with the requirements of this Directive that apply to them.

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

It must contain in particular an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to the quality of the explosives,
- the manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means of monitoring the achievement of the required quality of explosive and the effective operation of the quality system.

- 3.3. The notified body must assess the quality system to determine whether it satisfies the requirements referred to in 3.2. It must presume conformity with those requirements in respect of quality systems that implement the relevant harmonized standard. The auditing team must have at least one member with experience of assessing the relevant product technology. The assessment procedure includes an inspection visit to the manufacturer's premises.

The decision is notified to the manufacturer. The notification must contain the conclusions of the examination and the duly substantiated assessment decision.

- 3.4. The manufacturer must undertake to fulfil the obligations arising out of the quality system as approved and maintain it at an adequate and efficient level.

The manufacturer or his authorized representative must keep the notified body that has approved the quality system informed of any proposed change in the quality system.

The notified body must assess the changes proposed and decide whether the altered quality system will still satisfy the requirements referred to in 3.2 or whether reassessment is required.

It must notify the manufacturer of its decision. The notification must contain the conclusions of the examination and the substantiated assessment decision.

4. *Monitoring under the responsibility of the notified body*
 - 4.1 The purpose of monitoring is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.
 - 4.2 The manufacturer must allow the notified body access for inspection purposes to the manufacturing, inspection, testing and storage premises and provide it with all necessary information, in particular:
 - the quality system documents,
 - the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.
 - 4.3 The notified body must periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and provides an audit report to the manufacturer.
 - 4.4 Additionally the notified body may pay unannounced visits to the manufacturer. During such visits the notified body may carry out tests or have them carried out to verify that the quality system is functioning correctly; if necessary, the notified body must provide the manufacturer with a visit report and, if a test has taken place, with a test report.
5. The manufacturer must, for a period of at least 10 years after the last date of manufacture of the product, keep at the disposal of the national authorities:
 - the document referred to in the second indent of 3.1,
 - the updating referred to in second paragraph of 3.4,
 - the decisions and reports from the notified body which are referred to in the final paragraph of 3.4, and in 4.3 and 4.4.
6. Each notified body must give the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.

4. MODULE E: Product quality assurance

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of Section 2 ensures and declares that the explosives are in conformity with the type as described in the EC type-examination certificate. The manufacturer must affix the CE mark to each explosive and draw up a written declaration of conformity. The CE mark must be accompanied by the identification symbol of the notified body responsible for the checks referred to in Section 4.
2. The manufacturer must operate an approved quality system for final explosive inspection and testing as specified in Section 3. He must be subject to the checks referred to in Section 4.
3. *Quality system*
 - 3.1. The manufacturer lodges an application with a notified body of his choice for the assessment of the quality system for his explosives.

The application must include:

 - all relevant information for the explosive category envisaged,
 - the quality system's documentation,
 - the technical documents pertaining to the approved type and a copy of the EC type-examination certificate.
 - 3.2. Under the quality system, each explosive is examined and appropriate tests as defined in the relevant standard(s) referred to in Article 4 or equivalent tests are carried out in order to verify its conformity with the relevant requirements of the Directive. All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation must enable the quality programmes, plans, manuals and records to be interpreted in a uniform manner.

It must in particular contain an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to product quality,
- the examination and tests that will be carried out after manufacture,
- the means of monitoring the effective operation of the quality system,
- quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

- 3.3. The notified body must assess the quality system to determine whether it satisfies the requirements referred to in 3.2. It must presume conformity with these requirements in respect of quality systems that implement the relevant harmonized standard.

The auditing team must have at least one member with experience of assessing the relevant product technology. The assessment procedure must include an inspection visit to the manufacturer's premises.

The manufacturer must be notified of the decision. The notification must contain the conclusions of the examination and the substantiated assessment decision.

- 3.4. The manufacturer must undertake to fulfil the obligations arising out of the quality system as approved and maintain it at an adequate and efficient level.

The manufacturer or his authorized representative must keep the notified body which has approved the quality system informed of any proposed change in the quality system.

The notified body must assess the changes proposed and decide whether the altered quality system will still satisfy the requirements referred to in 3.2 or whether a reassessment is required.

It must notify the manufacturer of its decision. The notification must contain the conclusions of the examination and the substantiated assessment decision.

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

- 4.2. The manufacturer must allow the notified body access for inspection purposes to the inspection, testing and storage premises and provide it with all necessary information, in particular:

- the quality system documentation,
- the technical documents,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

- 4.3. The notified body must periodically carry out audits to ensure that the manufacturer maintains and applies the quality system and must provide an audit report to the manufacturer.

- 4.4. Additionally, the notified body may pay unannounced visits to the manufacturer. During such visits the notified body may carry out tests or have them carried out to verify that the quality system is functioning correctly; if necessary, the notified body must provide the manufacturer with a visit report and, if a test has been carried out, with a test reports.

5. The manufacturer must for a period of at least 10 years after the last date of manufacture of the product keep at the disposal of the national authorities:

- the documents referred to in the second indent of 3.1,
- the changes referred to in the second paragraph of 3.4,
- the decisions and reports from the notified body which are referred to in the final paragraph of 3.4, and in 4.3 and 4.4.

6. Each notified body must forward to the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.

5. MODULE F: Product verification

1. This module describes the procedure whereby a manufacturer or his authorized representative established within the Community checks and attests that the explosives subject to the provisions of 3 are in conformity with the type as described in the EC type-examination certificate and satisfy the relevant requirements of the Directive.
2. The manufacturer shall take all measures necessary in order that the manufacturing process ensures conformity of the explosives with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them. He shall affix the CE mark to each explosive and shall draw up a declaration of conformity.
3. The notified body shall carry out the appropriate examinations and tests in order to check the conformity of the explosive with the relevant requirements of the Directive by examination and testing of every explosive as specified in 4.

The manufacturer or his authorized representative shall keep a copy of the declaration of conformity for a period ending at least 10 years after the last explosive has been manufactured.

4. *Verification by examination and testing of every explosive*
 - 4.1. All explosives shall be individually examined and appropriate tests as set out in the relevant standard(s) referred to in Article 4 or equivalent tests shall be carried out in order to verify their conformity with the relevant type and requirements of the Directive.
 - 4.2. The notified body shall affix or cause to be affixed, its identification symbol to each approved explosive and draw up a written certificate of conformity relating to the tests carried out.
 - 4.3. The manufacturer or his authorized representative shall ensure that he is able to supply the notified body's certificates of conformity on request.

6. MODULE G: Unit verification

1. This module describes the procedure whereby the manufacturer ensures and declares that the explosive which has been issued with the certificate referred to in Section 2 conforms to the relevant requirements of the Directive. The manufacturer must affix the CE mark to the explosive and draw up a declaration of conformity.
2. The notified body must examine the explosive and carry out the appropriate tests as set out in the relevant standard(s) referred to in Article 4, or equivalent tests, to ensure its conformity with the relevant requirements of the Directive.

The notified body must affix, or cause to be affixed, its identification symbol on the approved explosive and draw up a certificate of conformity concerning the tests carried out.
3. The aim of the technical documents is to enable conformity with the requirements of the Directive to be assessed and the design, manufacture and operation of the explosive to be understood.

The documents must contain, in so far as is necessary for the assessment:

- a general description of the type,
- conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of the said drawings and schemes and the operation of the explosive or protection system,
- a list of the standards referred to in Article 4, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements of the Directive where the standards referred to in Article 4 have not been applied,
- results of design calculations made, examinations carried out, etc.,
- test reports.

ANNEX III

MINIMUM CRITERIA TO BE TAKEN INTO ACCOUNT BY MEMBER STATES FOR THE NOTIFICATION OF BODIES

1. The body, its director and the staff responsible for carrying out the verification tests shall not be the designer, manufacturer, supplier or installer of explosives which they inspect, nor the authorized representative of any of these parties. They shall not become either involved directly or as authorized representatives in the design, construction, marketing or maintenance of such explosives. This does not preclude the possibility of exchanges of technical information between the manufacturer and the body.
2. The body and its staff shall carry out the verification tests with the highest degree of professional integrity and technical competence and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of the inspection, especially from persons or groups of persons with an interest in the result of verifications.
3. The body shall have at its disposal the necessary staff and possess the necessary facilities to enable it to perform properly the administrative and technical tasks connected with verification; it shall also have access to the equipment required for special verification.
4. The staff responsible for inspection shall have:
 - sound technical and professional training,
 - satisfactory knowledge of the requirements of the tests they carry out and adequate experience of such tests,
 - the ability to draw up the certificates, records and reports required to authenticate the performance of the tests.
5. The impartiality of inspection staff shall be guaranteed. Their remuneration shall not depend on the number of tests carried out or on the results of such tests.
6. The body shall take out civil liability insurance unless its liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the tests.
7. The staff of the body shall be bound to observe professional secrecy with regard to all information gained in carrying out its tasks (except *vis-à-vis* the competent administrative authorities of the State in which its activities are carried out) under this Directive or any provision of national law giving effect to it.

ANNEX IV

CONFORMITY MARKING

The CE conformity marking shall consist of the initials 'CE' taking the following form:



If the marking is reduced or enlarged the proportions given in the above graduated drawing must be respected.

603

I.2.C.12

COUNCIL

COUNCIL DIRECTIVE

of 16 July 1985

supplementing Directive 81/602/EEC concerning the prohibition of certain substances having a hormonal action and of any substances having a thyrostatic action

(85/358/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 100 thereof,

Having regard to Council Directive 81/602/EEC of 31 July 1981 concerning the prohibition of certain substances having a hormonal action and of any substances having a thyrostatic action⁽¹⁾, and in particular Article 7 thereof,

Having regard to the proposal from the Commission⁽²⁾,

Having regard to the opinion of the European Parliament⁽³⁾,

Having regard to the opinion of the Economic and Social Committee⁽⁴⁾,

Whereas Community control measures should be introduced to guarantee the uniform application, in all Member States, of the standards fixed in Directive 81/602/EEC;

Whereas such control measures must cover the various phases running from manufacturing to the sale of the substances and the veterinary pharmaceutical preparations referred to in Directive 81/602/EEC;

Whereas under Article 7 of Directive 81/602/EEC it is incumbent upon the Council to adopt in particular the detailed rules for carrying out controls covering farm animals in their farms of origin and at the slaughterhouse, and the meat of such animals and the meat products obtained therefrom;

Whereas provisions should be made for the official taking of samples at the slaughterhouse; whereas, furthermore, where there is a justified suspicion of infringement, provision should be made for the possibility taking such samples at the farm of origin;

Whereas the analysis of samples must be carried out in an officially approved laboratory;

Whereas, pending the adoption of a uniform Community method of analysis and reference methods, a common methodology should be adopted to be used in the event of dispute;

Whereas, where the presence of prohibited substances or of the residues of such substances is confirmed, an investigation should be made at the farm of origin in order to exclude the meat in question from human and animal consumption and to place the prohibited substances under official control;

Whereas in order to facilitate the implementation of the envisaged provisions, provision should be made for a procedure establishing close cooperation between the Member States and the Commission within the Standing Veterinary Committee set up by the Council Decision of 15 October 1968,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The Member States shall ensure that official on-the-spot random controls are made on the substances referred to in Directive 81/602/EEC at the manufacturing, handling, storage, transport, distribution and sales stages for the presence of prohibited substances and veterinary pharmaceutical preparations containing prohibited substances which may be intended to be administered to animals for fattening purposes.

(1) OJ No L 222, 7. 8. 1981, p. 32.

(2) OJ No C 305, 22. 11. 1980, p. 2.

(3) OJ No C 50, 9. 3. 1981, p. 87.

(4) OJ No C 138, 9. 6. 1981, p. 29.

Article 2

Without prejudice to the controls provided for in Directives 64/433/EEC ⁽¹⁾ and 72/462/EEC ⁽²⁾, Member States shall ensure that controls on farm animals, the meat of such animals and the meat products obtained therefrom are carried out within their territories, in accordance with the following Articles, in order to secure compliance in particular with the provisions of Directive 81/602/EEC.

Article 3

Member States shall ensure that:

1. where there is justified suspicion of an infringement, the competent departments make or arrange to have made:
 - random controls on animals on their farms of origin, particularly in order to detect traces of implants,
 - an official control for the presence of the substances the use of which is prohibited on farms where animals are reared, kept or fattened;
 such controls may include the official taking of samples;
2. random samples are taken from animals from fattening farms.

Article 4

Member States shall ensure that, at the slaughterhouse, before slaughter the animals are examined and that samples are taken officially to reveal the illegal use of the substances referred to in Directive 81/602/EEC or the presence of residues of such substances. Depending on the nature of the substances sought, these samples are to be taken from:

- live animals, including specimens of urine or controls of any remains of solid implants, or
- carcasses after slaughter including a histopathological examination, or
- animals and meat.

Article 5

1. The samples referred to in Articles 3 and 4 shall be analysed in a laboratory approved by the competent authorities for the analysis of hormone residues.
2. Analysis of the samples provided for in paragraph 1 shall be carried out in accordance with methods to

be determined in accordance with the procedure laid down in Article 11, within eighteen months of notification of this Directive.

Pending decisions to this effect, the Member States shall, in the event of dispute, recognize the findings obtained by radio-immunoassay (RIA) and by thin layer chromatography or by gas chromatography.

3. All positive findings must, if contested, be confirmed by an official laboratory duly approved for the purpose by the competent authorities, using the reference methods established by virtue of Article 4 (1) (b) of Directive 64/433/EEC.

Article 6

1. Where the analysis referred to in Article 5 confirms the presence of prohibited substances or of residues either exceeding the maximum natural physiological levels for the authorized substances or proving that authorized substances have been used abusively, the competent authorities shall be informed immediately of:

- (a) all the particulars needed to identify the animal and its farm of origin. These particulars shall be determined in accordance with the procedure laid down in Article 10;
- (b) the result of the analysis.

2. The competent authorities shall then ensure that:

- (a) an investigation is made at the farm of origin to determine the reason for the presence of hormone residues;
- (b) an investigation of the source or sources of the substance concerned is made, as necessary, at the manufacturing, handling, storage, transport, distribution or sales stage.

3. The competent authorities shall also ensure that:

- (a) the herd or animals at the farm of origin and the herds which, as a result of the investigations referred to in paragraph 2 may be considered to contain the residue in question, are officially marked and subjected to appropriate analysis;
- (b) if these analyses reveal the presence of prohibited substances, the animals may not be placed on the market for human or animal consumption;
- (c) if the analyses reveal the presence of residues of authorized hormone substances exceeding the limits mentioned in paragraph 1, the slaughter of the animals intended for human consumption shall be prohibited until it is possible to be sure that the residue level does not exceed the permitted limits. That period may in no case be shorter than the waiting period laid down for the

⁽¹⁾ OJ No L 121, 29. 7. 1964, p. 2012/64.

⁽²⁾ OJ No L 302, 31. 12. 1972, p. 28.

preparation in question. However, where it is established that the conditions of use of the products have not been complied with, the animals concerned must be definitely excluded from human consumption;

- (d) the animals are not disposed of to other persons during the analysis period unless this occurs under the supervision of the official veterinarian.

4. By way of derogation from paragraph 3 (c), animals the slaughter of which is prohibited, may be slaughtered before the end of the prohibition period if the competent authority is informed thereof before the proposed date of slaughter, and has been made aware of the place of slaughter. Animals which have been officially marked must be accompanied at the place of slaughter by an official veterinary certificate containing the information required under paragraph 1 (a).

The carcase of each animal the slaughter of which is communicated pursuant to the first subparagraph shall be officially subjected to analysis of the residue in question and shall be kept until the result of the analysis is known.

Article 7

Where, without prejudice to the provisions of Article 4 of Directive 81/602/EEC, the controls and investigations laid down in Articles 2 to 6 disclose the presence of prohibited substances, the Member States shall ensure that these substances are placed under official control until the necessary sanctions are imposed.

Article 8

Where the results of the controls carried out in one Member State indicate the need for investigation in one or more other Member States or in one or more third countries, the Member State concerned shall inform the other Member States and the Commission thereof.

Member States in which an investigation proves to be necessary shall take the necessary measures.

If the need arises, at the request of the Member State which has requested the investigation or on its own initiative, the Commission may send an expert on the spot.

The detailed rules of application of this Article shall be adopted in accordance with the procedure laid down in Article 10.

Article 9

1. Member States shall forward information to the Commission at least once a year on the control measures they have taken, including details of

samplings, analyses and investigations carried out for detection of the presence of residues of substances the use of which is prohibited.

2. On the basis of that information, the Commission shall report to the representatives of the Member States meeting in the Standing Veterinary Committee, hereinafter referred to as the 'Committee'. If necessary, measures may be taken in accordance with the procedure laid down in Article 10, to ensure uniform application of the controls provided for in this Directive.

Article 10

1. Where the procedure laid down in this Article is to be used, the matter shall be referred to the Committee immediately by its Chairman, either on his own initiative or at the request of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be adopted. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by a majority of forty-five votes, the votes of the Member States being weighted as provided for in Article 148 (2) of the Treaty. The Chairman shall not vote.

3. The Commission shall adopt the measures and implement them immediately where they are in accordance with the opinion of the Committee. Where they are not in accordance with the opinion of the Committee or if no opinion is delivered, the Commission shall immediately submit to the Council a proposal on the measures to be taken. The Council shall act by a qualified majority.

If within three months of the date on which a matter was referred to it the Council has not adopted any measures, the Commission shall adopt the proposed measures and implement them immediately, save where the Council has decided against the measures by a simple majority.

Article 11

1. Where the procedure laid down in this Article is to be followed, the Chairman shall refer the matter to the Committee without delay either on his own initiative or at the request of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be adopted. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by a majority of 45 votes, the votes of the Member States being weighted as provided for in Article 148 (2) of the Treaty. The Chairman shall not vote.

3. The Commission shall adopt the measures and implement them immediately where they are in accordance with the opinion of the Committee. Where they are not in accordance with the opinion of the Committee or if no opinion is delivered, the Commission shall immediately submit to the Council a proposal on the measures to be taken. The Council shall act by a qualified majority.

If within fifteen working days of the date on which the matter was referred to it the Council has not adopted any measures, the Commission shall adopt the proposed measures and implement them immediately, save where the Council has decided against the measure by a simple majority.

Article 12

Member States shall ensure, except where expenses are incurred by the application of Articles 3 and 6, that the expenses entailed by the controls referred to in Article 2 *et seq.* are charged against the fees laid down by Directive 85/73/EEC⁽¹⁾.

Article 13

For the purposes of implementing Article 4 (2) (a) of Directive 72/462/EEC, the guarantees to be requested from third countries as regards compliance with the requirement laid down under (b) of the said provision

must not be more favourable than those provided for in this Directive.

In accordance with the procedure laid down in Article 11, guarantees at least equivalent to those resulting from application of this Directive may be accepted.

Article 14

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by a date to be fixed by the Council, acting unanimously on a proposal from the Commission, before 31 December 1985.

Before that latter date, the Council, acting unanimously on a proposal from the Commission, shall adopt the Decision provided for in Article 5 of Directive 81/602/EEC.

Article 15

This Directive is addressed to the Member States.

Done at Brussels, 16 July 1985.

For the Council

The President

M. FISCHBACH

⁽¹⁾ OJ No L 32, 5. 2. 1985, p. 14.