



COMMISSION OF THE EUROPEAN COMMUNITIES

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OPINION OF THE COMMISSION
pursuant to Article 251 (2) (c) of the EC Treaty,
on the European Parliament's amendments
to the Council's common position regarding the

proposal for a
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

**ON MINIMUM REQUIREMENTS FOR IMPROVING THE SAFETY AND
HEALTH
PROTECTION OF WORKERS POTENTIALLY AT RISK FROM EXPLOSIVE
ATMOSPHERES**

AMENDING THE PROPOSAL OF THE COMMISSION
pursuant to Article 250 (2) of the EC Treaty

1. HISTORY OF THE FILE

Proposal submitted to the Council	:	18.09.1995
Opinion of the Economic and Social Committee	:	28.02.1996
Opinion of the European Parliament delivered	:	20.06.1996
Amended proposal submitted to Council	:	11.04.1997
Common position adopted by Council	:	22.12.1998
Amendments proposed by European Parliament	:	06.05.1999

2. PROPOSAL FROM THE COMMISSION

The Commission submitted the original proposal for this Directive to Council on 18 September 1995.¹

The proposal is based on Art. 137 (2) (ex-Article 118A) of the EC Treaty in the form of an individual directive under Article 16(1) of Council Directive 89/391/EEC² on the introduction of measures to encourage improvements in the health and safety of workers at work.

The aims of the proposal are :

- a) to adopt, as provided for in Article 137 (2) (ex-Art.118A) of the Treaty, the minimum requirements for the safety and health protection of workers potentially at risk from explosive atmospheres ;
- b) to establish specific provisions to improve the safety and health protection of workers potentially at risk from explosive atmospheres in strict compliance with the principles set out in Directive 89/391/EEC ;
- c) to create a suitable framework for explosion protection for industry in general, such as already exists for the mineral-extracting industries (Directives 92/91/EEC³ and 92/104/EEC⁴).

This proposal supplements Directive 94/9/EC⁵ of 23 March 1994 on the approximation of laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres. Equipment and

¹ OJ No C332, 9.12.1995, p. 10

² OJ No L183, 29.6.1989, p. 1

³ OJ No L348, 28.11.1992, p. 9

⁴ OJ No L404, 31.12.1992, p. 10

⁵ OJ No L100, 19.4.1994, p. 1

protective systems covered by this directive are divided into categories. For the proper use of these categories, the workplaces in which explosive atmospheres may be present must be classified in terms of zones. One of the purposes of this proposal is to create a standard legal basis for the zoning, based on a risk assessment of the workplaces where the equipment is to be used allowing for the adequate selection of equipment with the suitable level of protection for each zone.

3. ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee rendered a favourable opinion during its 333 rd plenary session on 28 and 29 February 1996.

4. FIRST READING OF EUROPEAN PARLIAMENT

In its first reading the European Parliament established 14 amendments, four of which the Commission did not accept, the others being accepted at least in part.

Concerning the four amendments which were not taken into account.

- Amendment N° 6 was considered unacceptable since Article 9 covers requirements on both workplaces and work equipment ;
- Amendment N° 9 was considered to introduce uncertainty regarding the entering into force of the directive.
- Amendment N° 10 was considered not acceptable as the proposed reference does not add anything essential and could create legal uncertainty.
- Finally, regarding amendment N° 12, it was felt that this amendment renders the text too restrictive and imposes an unnecessary constraint on undertakings, in particular on small and medium-sized enterprises.

Concerning the amendments that were accepted either partly or totally :

- Regarding amendment N° 2, it was felt that the first part of the amendment clarifies the text of the original proposal.
- Regarding amendment N° 3, the substitution of "responsible supervision" by "appropriate supervision" also reflects the opinion of ECOSOC and was considered acceptable.
- Regarding amendment N° 4, the Commission considered the amendment to be acceptable with a slightly different wording in line with the Commission's original text specifying that the employer "shall ensure" that an explosion protection document is drawn up and kept up-to-date.
- Regarding amendment N° 7, the Commission considered the deletion of "work equipment" to be a logical consequence of the wording of Article 9, paragraph 1 and 2.

- With respect to amendment N° 8, the Commission considered it be complemented in a way indicating that the Commission will draw up the Vademecum in accordance with the procedure laid down under Article 17 of Directive 89/391/EEC, modifications and supplements shall be subject to the same procedure.

The Commission considered five amendments (N° 1, 5, 11, 13 and 14) to improve the original text, and therefore accepted them in toto.

5. AMENDED PROPOSAL

Subsequent to the opinion of the European Parliament, the Commission presented to the Council, under Article 189a(2) (now Article 251), an amended proposal for a Directive on 11 April 1997.

6. COMMON POSITION

On 22 December 1998, the Council of Ministers unanimously reached a Common Position.

The common position is based on a Presidency text which maintains in general terms the approach of the Commission's proposal but seeks to shorten the text in particular by avoiding repetition of provisions already contained in the Framework Directive and concentrating on those provisions which are essential for the protection of workers potentially at risk from explosive atmospheres.

The Council made significant changes to the Commission's proposal, which it justifies on the basis of omitting references to provisions already covered in the Framework Directive (89/391/EC), also omitting non-binding elements of the proposals, avoiding what it termed "excessively detailed explanations" in the text, and changing the emphasis in a number of places by bringing material from the annexes into the main body of the proposal and vice-versa.

The Council claims to concentrate on those provisions which are essential for the protection of workers potentially at risk from explosive atmospheres.

The Commission has placed and maintained reservations against the deletions from the amended proposal of provisions considered essential for the establishment of a strong and coherent prevention strategy against the risks arising from explosive atmospheres; e.g. on :

- Article 4 : deletion of former Article 4(1) on appropriate supervision and on competent workers.
- Annex II : deletion of former item 4.1 as regards the requirement that the protective measures be appropriate to the greatest potential hazard.
- Annex II : deletion of former items 4.11 to 4.13, as the Commission could not agree on the deletion of these requirements since Directive 94/9/EC is not applicable to equipment already in use. Without them workers will remain

exposed to risks related to old equipment for which no community obligation exists.

These provisions originated in an analysis of the causes of major accidents caused by explosive atmospheres such as on the Piper Alpha oil rig explosion and others.

Although the Commission's reservations were initially supported by certain delegations, all delegations subsequently lifted their reservations.

As stated earlier, Council adopted the common position by unanimity. It accepted only 4 amendments in total out of the 14 amendments submitted by European Parliament. (amendments No 1, 5, 11, 13).

It is to be stressed that these amendments had also been totally accepted by the Commission.

Furthermore Council accepted 2 amendments partially (amendments No 2 and 7) being in line with the Commission's amended proposal.

The remaining 8 amendments (Nos 3, 4, 6, 8, 9, 10, 12 and 14) were not accepted by Council. One of them (amendment No 14) was totally accepted by the Commission and three amendments (Nos 3, 4 and 7) partially.

7. SECOND READING OF EUROPEAN PARLIAMENT

On 6 May 1999 the European Parliament adopted during its second reading 8 amendments on the common position, of these eight amendments :

- five concern the articles of the directive
- two concern annex II of the directive
- one concerns annex III of the directive

8. COMMISSION'S OPINION ON THE AMENDMENTS

The Commission considers all amendments acceptable.

The Commission's opinion on the eight amendments tabled is given in the annex.

9. REFERENCE TO THE TREATY

The Commission points out that in accordance with article 251(3) of the Treaty if, within three months of receiving the Parliament amendments, the Council, acting by a qualified majority, approves all of the amendments, it shall amend its Common position accordingly and adopt the act in question; however, the Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion. If the Council does not approve the act in question, the President of the Council, in agreement with the President of the European Parliament, shall within 6 weeks convene a meeting of the Conciliation Committee.

ANNEX

COMMISSION'S OPINION ON THE AMENDMENTS

Amendment 1 : Commission opinion : acceptable

The amendment seeks to replace "mitigation" by "reduction" and is acceptable as it reintroduces the wording of the Commission's proposal.

It is considered that the word "reduction" is the appropriate term in a directive aiming to improve the health and safety of workers.

Amendment 2 : Commission opinion : acceptable

The amendment seeks the reintroduction of the general obligations upon the employer concerning

- safe working environment
- appropriate supervision
- designation of an overall supervisor

which were deleted by Council.

Amendment 3 : Commission opinion : acceptable

Taking into account that work in potentially explosive atmospheres represents a specific risk to the workers and that the provisions of the framework directive are not sufficiently specific in that regard it is deemed useful to reintroduce the requirements of the Commission's proposal that design, operation and maintenance of the workplace and work equipment including warning signs are safe.

Amendment 4 : Commission opinion : acceptable

The amendment seeks to reintroduce the requirement of the establishment of a vademecum setting out guidelines for some possible ways of complying with the directive.

Amendment 5 : Commission opinion : acceptable

The amendment seeks to reintroduce a requirement of information to undertakings in particular to SMEs as tabled during the first reading. Council decided to delete the requirement which had been introduced into the Commission's amended proposal further to an amendment from Parliament partly accepted by the Commission.

Amendment 6 : Commission opinion : acceptable

The amendment seeks to reintroduce the requirement that protective measures shall be appropriate to the greatest potential hazard which Council decided to delete.

The Commission had placed and maintained a reserve on the deletion of this requirement but was confronted with Council's unanimity.

Amendment 7 : Commission opinion : acceptable

The amendment seeks to reintroduce requirements already applicable to new equipment (see Directive 94/9/EC) and judged essential for the safe use of equipment already in use which is not covered by Directive 94/9/EC such as :

- the containment of additional risks originating from power failure
- the possibility of manual override in case automatic processes deviate from the intended operating conditions
- the dispersal or isolation of accumulated energy in the event of an emergency shut down.

The Commission had previously placed and maintained a reserve on the deletion of these requirements but was confronted with Council's unanimity.

Amendment 8 : Commission opinion : acceptable

The amendment seeks to bring in line the safety sign - found in Annex III of the directive - with the existing CEN/ISO standards. The acceptance will help to avoid an unnecessary burden upon industry which otherwise would be obliged to replace the safety signs already in place.

AMENDED PROPOSAL
FOR A EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE
ON MINIMUM REQUIREMENTS FOR IMPROVING THE SAFETY
AND HEALTH PROTECTION OF WORKERS POTENTIALLY
AT RISK FROM EXPLOSIVE ATMOSPHERES

COMMON POSITION (OJ C 55, 25.2.99, p. 45)	AMENDED TEXT PURSUANT TO Art. 250(2) of the Treaty
<p>THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty establishing the European Community, and in particular Article 118a thereof;</p> <p>Having regard to the proposal from the Commission ⁽¹⁾, submitted after consultation with the Advisory Committee on Safety, Hygiene and Health Protection at Work and the Safety and Health Commission for the Mining and Other Extractive Industries;</p> <p>Having regard to the Opinion of the Economic and Social Committee ⁽²⁾;</p> <p>Acting in accordance with the procedure referred to in Article 189c of the Treaty ⁽³⁾;</p> <p>(1) Whereas Article 118a of the Treaty provides that the Council shall adopt, by means of Directives, minimum requirements for encouraging improvements, especially in the working environment, to guarantee a better level of protection of the health and safety of workers;</p> <p>(2) Whereas, under the terms of that Article, those Directives are to avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;</p> <p>(3) Whereas the improvement of occupational safety, hygiene and health is an objective which should not be subordinated to purely economic considerations;</p>	<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty establishing the European Community, and in particular Article 137 (2) thereof;</p> <p>Acting in accordance with the procedure referred to in Article 251 of the Treaty ⁽³⁾;</p> <p>(1) Whereas Article 137 (2) of the Treaty provides that the Council may adopt, by means of Directives, minimum requirements for improvement in particular, of the working environment to protect workers health and safety.</p>

⁽¹⁾ OJ C 332, 9.12.1995, p. 10.

⁽²⁾ OJ C 153, 28.5.1996, p. 35.

⁽³⁾ Opinion of the European Parliament of 20 June 1996
Council Common Position of 23. December 1998.
Opinion of the European Parliament of 6.May 1999.

COMMON POSITION	AMENDED TEXT PURSUANT TO Art. 250 (2) of the Treaty
<p>(4) Whereas compliance with the minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres is essential if workers' safety and health protection is to be ensured;</p> <p>(5) Whereas this Directive is an individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work ⁽⁴⁾; whereas, therefore, the provisions of the said Directive, in particular those relating to worker information, to the consultation and participation of workers and to the training of workers, are also fully applicable to cases in which workers are potentially at risk from explosive atmospheres, without prejudice to more restrictive or specific provisions contained in this Directive;</p> <p>(6) Whereas this Directive constitutes a practical step towards the achievement of the social dimension of the internal market;</p> <p>(7) Whereas Directive 94/9/EC of the European Parliament and of the Council of 23 March 1994 on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres ⁽⁵⁾ states that it is intended to prepare an additional Directive based on Article 118a covering, in particular, explosion hazards which derive from a given use and/or types and methods of installation of equipment;</p>	
<p>(8) Whereas explosion protection is of particular importance to safety; whereas explosions endanger the lives and health of workers as a result of the uncontrolled effects of flame and pressure, the presence of noxious reaction products and consumption of the oxygen in the ambient air which workers need to breathe;</p> <p>(9) Whereas the establishment of a coherent strategy for the prevention of explosions requires</p>	

⁽⁴⁾ OJ L 183, 29.6.1989, p. 1.

⁽⁵⁾ OJ L 100, 19.4.1994, p. 1.

COMMON POSITION	AMENDED TEXT PURSUANT TO Art. 250 (2) of the Treaty
<p>that organisational measures complement the technical measures taken at the workplace; whereas Directive 89/391/EEC requires the employer to be in possession of an assessment of the risks to workers' health and safety at work; whereas this requirement is to be regarded as being specified by this Directive in that it provides that the employer shall draw up an explosion protection document or set of documents which satisfy the minimum requirements laid down in this Directive and keep it up to date; whereas the explosion protection document includes the identification of the hazards, the evaluation of risks and the definition of the specific measures to be taken to safeguard the health and safety of workers at risk from explosive atmospheres, in accordance with Article 9 of Directive 89/391/EEC; whereas the explosion protection document may be part of the assessment of the risks to health and safety at work required by Article 9 of Directive 89/391/EEC;</p> <p>(10) Whereas an assessment of explosion risks may be required under other Community acts; whereas, in order to avoid unnecessary duplication of work, the employer should be allowed, in accordance with national practice, to combine documents, parts of documents or other equivalent reports produced under other Community acts to form a single "safety report";</p> <p>(11) Whereas the prevention of the formation of explosive atmospheres also includes the application of the substitution principle;</p>	
<p>(12) Whereas preventive measures must be supplemented if necessary by additional measures which become effective when ignition has taken place; whereas maximum safety can be achieved by combining preventive measures with other additional measures limiting the detrimental effects of explosions on workers;</p> <p>(13) Whereas Council Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work</p>	

COMMON POSITION	AMENDED TEXT PURSUANT TO Art. 250 (2) of the Treaty
<p>(Ninth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) ⁽⁶⁾ is fully applicable, in particular to places immediately contiguous to hazardous areas, where smoking, crosscutting, welding and other activities introducing flames or sparks may interact with the hazardous area;</p> <p>(14) Whereas Directive 94/9/EC divides the equipment and protective systems which it covers into equipment groups and categories; whereas this Directive provides for a classification by the employer of the places where explosive atmospheres may occur in terms of zones and determines which equipment and protective systems groups and categories should be used in each zone,</p> <p>HAS ADOPTED THIS DIRECTIVE:</p> <p>Section I</p> <p>General provisions</p> <p><u>Article 1</u> Object and scope</p> <p>1. This Directive, which is the Fifteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC, lays down minimum requirements for the safety and health protection of workers potentially at risk from explosive atmospheres as defined in Article 2.</p>	
<p>2. This Directive shall not apply to:</p> <p>(a) areas used directly for and during the medical treatment of patients;</p> <p>(b) the use of appliances burning gaseous fuels in accordance with Directive 90/396/EEC ⁽⁷⁾;</p> <p>(c) the manufacture, handling, use, storage and transport of explosives or chemically unstable</p>	<p>HAVE ADOPTED THIS DIRECTIVE:</p>

⁽⁶⁾ OJ L 245, 26.8.1992, p. 23.

⁽⁷⁾ OJ L 196, 26.7.1990, p. 15. Directive as amended by Directive 93/63/EEC (OJ L 220, 30.8.1993, p. 1).

COMMON POSITION	AMENDED TEXT PURSUANT TO Art. 250 (2) of the Treaty
<p>substances;</p> <p>(d) mineral-extracting industries covered by Directive 92/91/EEC ⁽⁸⁾ or Directive 92/104/EEC ⁽⁹⁾;</p> <p>(e) the use of means of transport by land, water and air, to which the pertinent provisions of the international agreements (e.g. ADNR, ADR, ICAO, IMO, RID), and the Community Directives giving effect to those agreements, apply. Means of transport intended for use in a potentially explosive atmosphere shall not be excluded.</p> <p>3. The provisions of Directive 89/391/EEC and the relevant individual Directives are fully applicable to the domain referred to in paragraph 1, without prejudice to more restrictive and/or specific provisions contained in this Directive.</p>	
<p><u>Article 2</u></p> <p>Definition</p> <p>For the purposes of this Directive, "explosive atmosphere" means a mixture with air, under atmospheric conditions, of flammable substances in the form of gases, vapours, mists or dusts in which, after ignition has occurred, combustion spreads to the entire unburned mixture.</p> <p>Section II</p> <p>Obligations of the employer</p>	

⁽⁸⁾ OJ L 348, 28.11.1992, p. 9.

⁽⁹⁾ OJ L 404, 31.12.1992, p. 10.

COMMON POSITION	AMENDED TEXT PURSUANT TO Art. 250 (2) of the Treaty
<p><u>Article 3</u></p> <p>Prevention of and protection against explosions</p> <p>1. With a view to preventing, within the meaning of Article 6(2) of Directive 89/391/EEC, and providing protection against explosions, the employer shall take technical and/or organisational measures appropriate to the nature of the operation, in order of priority and in accordance with the following basic principles:</p> <ul style="list-style-type: none"> – the prevention of the formation of explosive atmospheres, or where the nature of the activity does not allow that, – the avoidance of the ignition of explosive atmospheres, and – the mitigation of the detrimental effects of an explosion so as to ensure the health and safety of workers. <p>These measures shall where necessary be combined and/or supplemented with measures against the propagation of explosions and shall be reviewed regularly and, in any event, whenever significant changes occur.</p>	<p><u>Article 3</u></p> <p>Prevention of and protection against explosions</p> <p>1. With a view to preventing, within the meaning of Article 6(2) of Directive 89/391/EEC, and providing protection against explosions, the employer shall take technical and/or organisational measures appropriate to the nature of the operation, in order of priority and in accordance with the following basic principles:</p> <ul style="list-style-type: none"> – the prevention of the formation of explosive atmospheres, or where the nature of the activity does not allow that, – the avoidance of the ignition of explosive atmospheres, and – the <u>reduction</u> of the detrimental effects of an explosion so as to ensure the health and safety of workers. <p>These measures shall where necessary be combined and/or supplemented with measures against the propagation of explosions and shall be reviewed regularly and, in any event, whenever significant changes occur.</p>
<p><u>Article 4</u></p> <p>Assessment of explosion risks</p> <p>1. In carrying out the obligations laid down in Articles 6(3) and 9(1) of Directive 89/391/EEC the employer shall assess the specific risks arising from explosive atmospheres, taking account at least of:</p> <ul style="list-style-type: none"> – the likelihood that explosive atmospheres will occur and their persistence; – the likelihood that ignition sources, including electrostatic discharges, will be present and become active and effective; – the installations, substances used, 	

COMMON POSITION	AMENDED TEXT PURSUANT TO Art. 250 (2) of the Treaty
<p>processes, and their possible interactions; – the scale of the anticipated effects.</p> <p>Explosion risks shall be assessed overall.</p> <p>2. Places which are or can be connected via openings to places in which explosive atmospheres may occur shall be taken into account in assessing explosion risks.</p>	<p>Article 4a General obligations</p> <p>To ensure the safety and health of workers, and in accordance with the basic principles of risk assessment laid down in Article 3, the employer shall take the necessary measures so that:</p> <ul style="list-style-type: none"> - where explosive atmospheres may arise in such quantities as to endanger the safety and health of workers, the working environment is such that workers can perform the work assigned to them without danger to their safety and health or to the safety and health of others, - appropriate supervision during the presence of workers shall be ensured, in accordance with the risk assessment for example by the use of monitoring devices and modern technical means, in working environments where explosive atmospheres may arise in such quantities as to endanger the safety and health of workers.
<p><u>Article 5</u></p> <p>Duty of coordination</p> <p>Where workers from several undertakings are present at the same workplace, each employer shall be responsible for all matters coming under his control.</p>	<p>Without prejudice to Article 5, where workers from several undertakings are present at the same workplace, each employer shall ensure appropriate supervision of its workers or may designate one of the employers as overall supervisor;</p>

COMMON POSITION	AMENDED TEXT PURSUANT TO Art. 250 (2) of the Treaty
<p>Without prejudice to the individual responsibility of each employer as provided for in Directive 89/391/EEC, the employer responsible for the workplace in accordance with national law and/or practice shall coordinate the implementation of all the measures concerning workers' health and safety and shall state, in the explosion protection document referred to in Article 7, the aim of that coordination and the measures and procedures for implementing it.</p> <p><u>Article 6</u></p> <p>Places where explosive atmospheres may occur</p> <p>1. The employer shall classify places where explosive atmospheres may occur into zones in accordance with Annex I.</p> <p>2. The employer shall ensure that the minimum requirements laid down in Annex II are applied to places covered by paragraph 1.</p> <p>3. Where necessary, places where explosive atmospheres may occur in such quantities as to endanger the health and safety of workers shall be marked with signs at their points of entry in accordance with Annex III.</p>	
<p><u>Article 7</u></p> <p>Explosion protection document</p> <p>In carrying out the obligations laid down in Article 4, the employer shall ensure that a document, hereinafter referred to as the "explosion protection document", is drawn up and kept up to date.</p> <p>The explosion protection document shall demonstrate in particular:</p> <p>– that the explosion risks have been determined and assessed,</p>	<p><u>Article 7</u></p> <p>Explosion protection document</p> <p>In carrying out the obligations laid down in Article 4, the employer shall ensure that a document, hereinafter referred to as the "explosion protection document", is drawn up and kept up to date.</p> <p>The explosion protection document shall demonstrate in particular:</p> <p>– that the explosion risks have been determined and assessed,</p>

COMMON POSITION	AMENDED TEXT PURSUANT TO Art. 250 (2) of the Treaty
<ul style="list-style-type: none"> - that adequate measures will be taken to attain the aims of this Directive, - those places which have been classified into zones in accordance with Annex I, - those places where the minimum requirements set out in Annex II will apply. <p>The explosion protection document shall be drawn up prior to the commencement of work and be revised when the workplace, work equipment or organisation of the work undergoes significant changes, extensions or conversions.</p> <p>The employer may combine existing explosion risk assessments, documents or other equivalent reports produced under other Community acts.</p> <p><u>Article 8</u></p> <p>Special requirements for work equipment and workplaces</p>	<ul style="list-style-type: none"> - that adequate measures will be taken to attain the aims of this Directive, - those places which have been classified into zones in accordance with Annex I, - those places where the minimum requirements set out in Annex II will apply. - that the workplace and work equipment including warning devices are designed operated and maintained with due regard for safety; - that in accordance with Directive 89/655/EEC, arrangements have been made for the safe use of work equipment. <p>The explosion protection document shall be drawn up prior to the commencement of work and be revised when the workplace, work equipment or organisation of the work undergoes significant changes, extensions or conversions.</p> <p>The employer may combine existing explosion risk assessments, documents or other equivalent reports produced under other Community acts.</p>
<p>1. Work equipment for use in places where explosive atmospheres may occur which is already in use or is made available in the undertaking or establishment for the first time before 30 June 2003 shall comply from that date with the minimum requirements laid down in Annex II, Part A, if no other Community Directive is applicable or is so only partially.</p> <p>2. Work equipment for use in places where explosive atmospheres may occur which is made available in the undertaking or establishment for the first time after 30 June 2003 shall comply with the minimum requirements laid down in Annex II, Parts A and B.</p>	

COMMON POSITION	AMENDED TEXT PURSUANT TO Art. 250 (2) of the Treaty
<p>3. Workplaces which contain places where explosive atmospheres may occur and which are used for the first time after 30 June 2003 shall comply with minimum requirements set out in this Directive.</p> <p>4. Where workplaces which contain places where explosive atmospheres may occur are already in use before 30 June 2003, they shall comply with the minimum requirements set out in this Directive no later than three years after that date.</p> <p>5. If, after 30 June 2003, any modification, extension or restructuring is undertaken in workplaces containing places where explosive atmospheres may occur, the employer shall take the necessary steps to ensure that these comply with the minimum requirements set out in this Directive.</p> <p>Section III</p> <p>Miscellaneous provisions</p> <p><u>Article 9</u></p> <p>Adjustments to the Annexes</p> <p>Purely technical adjustments to the Annexes made necessary by:</p>	
<ul style="list-style-type: none"> - the adoption of Directives on technical harmonisation and standardisation in the field of explosion protection, and/or - technical progress, changes in international regulations or specifications, and new findings on the prevention of and protection against explosions, <p>Shall be adopted in accordance with the procedure laid down in Article 17 of Directive 89/391/EEC.</p>	<p>Article 9a (new)</p> <p>Vademecum</p> <p>A vademecum setting out guidelines for some possible ways of complying with the minimum</p>

COMMON POSITION	AMENDED TEXT PURSUANT TO Art. 250 (2) of the Treaty
<p><u>Article 10</u></p> <p>Final provisions</p> <p>1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 30 June 2003. They shall forthwith inform the Commission thereof.</p>	<p>requirements contained in this Directive shall be drawn up by the Commission in accordance with the procedure laid down under Article 17 of Directive 89/391/EEC, modifications and supplements thereto being subject to that same procedure.</p> <p>Article 9b (new)</p> <p>Information to undertakings</p> <p>Member States shall ensure that measures are taken to inform undertakings likely to be affected by the Directive, particularly small and medium-sized enterprises, of the provisions of the Directive. In this context Member States shall also ensure that the vademecum drawn up pursuant to Article 9 (a) is widely distributed.</p>
<p>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 reference shall be laid down by the Member States.</p> <p>2. Member States shall communicate to the Commission the text of the provisions of domestic law which they have already adopted or adopt in the field governed by this Directive.</p> <p>3. Member States shall report to the Commission every five years on the practical implementation of the provisions of this Directive, indicating the points of view of employers and workers. The Commission shall inform thereof the European Parliament, the Council, the Economic and Social Committee and the Advisory Committee on Safety, Hygiene and Health Protection at Work.</p>	

COMMON POSITION	AMENDED TEXT PURSUANT TO Art. 250 (2) of the Treaty
<p><u>Article 11</u></p> <p>This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.</p> <p><u>Article 12</u></p> <p>This Directive is addressed to the Member States. Done at</p> <p>For the Council</p> <p>The President</p>	<p><u>Article 12</u></p> <p>This Directive is addressed to the Member States. Done at</p> <p>For the European Parliament For the Council</p> <p>The President The President</p>
<p><u>ANNEX I</u></p> <p>Classification of places where explosive atmospheres may occur</p> <p>Preliminary note:</p> <p>The following system of classification must be applied to places where precautions in accordance with Articles 3, 4, 6 and 7 are taken.</p> <p>1. Places where explosive atmospheres may occur</p> <p> A place in which an explosive atmosphere may occur in such quantities as to require special precautions to protect the health and safety of the workers concerned is deemed to be hazardous within the meaning of this Directive.</p>	

COMMON POSITION	AMENDED TEXT PURSUANT TO Art. 250 (2) of the Treaty
<p>A place in which an explosive atmosphere is not expected to occur in such quantities as to require special precautions is deemed to be non-hazardous within the meaning of this Directive.</p> <p>Flammable and/or combustible substances are considered as materials which may form an explosive atmosphere unless an investigation of their properties has shown that in mixtures with air they are incapable of independently propagating an explosion.</p> <p>2. Classification of hazardous places</p> <p>Hazardous places are classified in terms of zones on the basis of the frequency and duration of the occurrence of an explosive atmosphere.</p> <p>The extent of the measures to be taken in accordance with Annex II, Part A, is determined by this classification.</p>	
<p>Zone 0</p> <p>A place in which an explosive atmosphere consisting of a mixture with air of flammable substances in the form of gas, vapour or mist is present continuously or for long periods or frequently.</p> <p>Zone 1</p> <p>A place in which an explosive atmosphere consisting of a mixture with air of flammable substances in the form of gas, vapour or mist is likely to occur in normal operation occasionally.</p> <p>Zone 2</p> <p>A place in which an explosive atmosphere consisting of a mixture with air of flammable substances in the form of gas, vapour or mist is not likely to occur in normal operation but, if it does occur, will persist for a short period only.</p>	

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<p>Zone 20</p> <p>A place in which an explosive atmosphere in the form of a cloud of combustible dust in air is present continuously, or for long periods or frequently.</p> <p>Zone 21</p> <p>A place in which an explosive atmosphere in the form of a cloud of combustible dust in air is likely to occur in normal operation occasionally.</p> <p>Zone 22</p> <p>A place in which an explosive atmosphere in the form of a cloud of combustible dust in air is not likely to occur in normal operation but, if it does occur, will persist for a short period only.</p> <p>Notes:</p> <p>1. Layers, deposits and heaps of combustible dust must be considered as any other source which can form an explosive atmosphere.</p>	
<p>2. "Normal operation" means the situation when installations are used within their design parameters.</p> <p><u>ANNEX II</u></p> <p>A. MINIMUM REQUIREMENTS FOR IMPROVING THE SAFETY AND HEALTH PROTECTION OF WORKERS POTENTIALLY AT RISK FROM EXPLOSIVE ATMOSPHERES</p> <p>Preliminary Note:</p> <p>The obligations laid down in this Annex apply to:</p> <ul style="list-style-type: none"> - places classified as hazardous in accordance with Annex I whenever required by the features of workplaces, workstations, the equipment or substances used or the danger caused by the activity related to the risks from explosive atmospheres; 	

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<p>– equipment in non-hazardous places which is required for, or helps to ensure, the safe operation of equipment located in hazardous places.</p> <p>1. Organisational measures</p> <p>1.1. Training of workers</p> <p>The employer must provide those working in places where explosive atmospheres may occur with sufficient and appropriate training with regard to explosion protection.</p> <p>1.2. Written instructions and permits to work</p> <p>Where required by the explosion protection document:</p> <p>– work in hazardous places must be carried out in accordance with written instructions issued by the employer;</p>	
<p>– a system of permits to work must be applied for carrying out both hazardous activities and activities which may interact with other work to cause hazards.</p> <p>Permits to work must be issued by a person with responsibility for this function prior to the commencement of work.</p> <p>2. Explosion protection measures</p> <p>2.1. Any escape and/or release, whether or not intentional, of flammable gases, vapours, mists or combustible dusts which may give rise to explosion hazards must be suitably diverted or removed to a safe place or, if that is not practicable, safely contained or rendered safe by some other suitable method.</p>	<p>2.1a (new)</p> <p>If an explosive atmosphere contains several types of flammable and/or combustible gases, vapours, mists or dusts, protective measures shall be appropriate to the greatest potential hazard.</p>

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<p>2.2. Prevention of ignition hazards in accordance with Article 3 must also take account of electrostatic discharges, where workers or the working environment act as charge carrier or charge producer. Workers must be provided with appropriate working clothes consisting of materials which do not give rise to electrostatic discharges that can ignite explosive atmospheres.</p> <p>2.3. Plant, equipment, protective systems and any associated connecting devices must only be brought into service if the explosion protection document indicates that they can be safely used in an explosive atmosphere. This applies also to work equipment and associated connecting devices which are not regarded as equipment or protective systems within the meaning of Directive 94/9/EC if their incorporation into an installation can in itself give rise to an ignition hazard. Necessary measures must be taken to prevent confusion between connecting devices.</p>	
<p>2.4. All necessary measures must be taken to ensure that the workplace, work equipment and any associated connecting device made available to workers have been designed, constructed, assembled and installed, and are maintained and operated, in such a way as to minimise the risks of an explosion and, if an explosion does occur, to control or minimise its propagation within that workplace and/or work equipment. For such workplaces appropriate measures must be taken to minimise the risks to workers from the physical effects of an explosion.</p>	
<p>2.5. Where necessary, workers must be given optical and/or acoustic warnings and withdrawn before the explosion conditions are reached.</p>	
<p>2.6. Where required by the explosion protection document, escape facilities must be provided and maintained to ensure that, in the event of danger, workers can leave endangered places promptly and safely.</p>	
<p>2.7. Before a workplace containing places where explosive atmospheres may occur is used for the first time, its overall explosion safety</p>	

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<p>must be verified. Any conditions necessary for ensuring explosion protection must be maintained.</p> <p>Such verification must be carried out by persons competent in the field of explosion protection as a result of their experience and/or professional training.</p>	<p>2.7. a (new)</p> <p>Where equipment and protective systems can give rise to a spread of additional risks in the event of a power failure, it must be possible to maintain them in a safe state of operation independently of the rest of the installation.</p>
<p>B. CRITERIA FOR THE SELECTION OF EQUIPMENT AND PROTECTIVE SYSTEMS</p> <p>If the explosion protection document based on a risk assessment does not state otherwise, equipment and protective systems for all places in which explosive atmospheres may occur must be selected on the basis of the categories set out in Directive 94/9/EC.</p> <p>In particular, the following categories of equipment must be used in the zones indicated,</p>	<p>2.7. b (new)</p> <p>Manual override must be possible in order to shut down the equipment and protective systems incorporated within automatic processes which deviate from the intended operating conditions, provided that this does not compromise safety.</p> <p>Only competent workers may take such action.</p> <p>2.7. c (new)</p> <p>When the emergency shutdown system is actuated, accumulated energy must be dissipated as quickly and as safely as possible or isolated so that it no longer constitutes a hazard.</p>

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<p>provided they are suitable for gases, vapours or mists and/or dusts as appropriate:</p> <ul style="list-style-type: none"> - in zone 0 or zone 20, category 1 equipment, - in zone 1 or zone 21, category 1 or 2 equipment, - in zone 2 or zone 22, category 1, 2 or 3 equipment. 	
<p><u>ANNEX III</u></p> <p>Warning sign for places where explosive atmospheres may occur, pursuant to Article 6(3)</p> <div data-bbox="183 1232 758 1724" data-label="Image"> </div> <p>Place where explosive atmospheres may occur</p> <p>Distinctive features:</p> <ul style="list-style-type: none"> - triangular shape, 	<p>Warning sign for places where explosive atmospheres may occur, pursuant to Article 6(3)</p> <div data-bbox="853 1232 1412 1724" data-label="Image"> </div> <p>Place where explosive atmospheres may occur</p> <p>Distinctive features:</p> <ul style="list-style-type: none"> - triangular shape,

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<p>– black letters on a yellow background with black edging (the yellow part to take up at least 50% of the area of the sign).</p> <p>Member States may add other explanatory data if they wish.</p>	<p>– black letters on a yellow background with black edging (the yellow part to take up at least 50% of the area of the sign).</p> <p>Member States may add other explanatory data if they wish.</p>

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