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II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 3 December 1982

on procedures for the surveillance and monitoring of environments concerned by waste from the titanium dioxide industry

(82/883/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof,

Having regard to Council Directive 78/176/EEC of 20 February 1978 on waste from the titanium dioxide industry ⁽¹⁾, and in particular Article 7 (3) 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, irrespective of the method and extent of the treatment of wastes from the titanium dioxide industry, the discharge, dumping, storage on, tipping on or injection into the ground of such wastes must be accompanied by measures for the surveillance and monitoring of the environments concerned from a physical, chemical, biological and ecological point of view;

Whereas, in order to monitor the quality of these environments, samples should be taken with a mini-

mum frequency so that the parameters specified in the Annexes may be measured; whereas the number of these sampling operations could be reduced in the light of the results obtained; whereas, to ensure that the monitoring is effective, samples should also be taken if possible in a zone deemed to be unaffected by the discharges in question;

Whereas, in connection with the analyses carried out by the Member States, common reference methods of measurement should be fixed for determining the parametric values which define the physical, chemical, biological and ecological characteristics of the environments concerned;

Whereas, for the surveillance and monitoring of the environments affected, Member States may at any time lay down other parameters in addition to those laid down by this Directive;

Whereas it is necessary to define the details of the methods of surveillance and monitoring which Member States communicate to the Commission; whereas the Commission shall, with the prior agreement of the Member States, publish a consolidated report on these details;

Whereas in certain natural circumstances it may prove difficult to carry out the surveillance and monitoring operations, and, accordingly, provision must be made for derogation, in certain cases, from this Directive;

Whereas technical and scientific progress may require the rapid adjustment of certain of the provisions contained in the Annex; whereas to facilitate implementation of the requisite measures a procedure should be laid down to establish close coopera-

⁽¹⁾ OJ No L 54, 25. 2. 1978, p. 19.

⁽²⁾ OJ No C 356, 31. 12. 1980, p. 32 and OJ No C 187, 22. 7. 1982, p. 10.

⁽³⁾ OJ No C 149, 14. 6. 1982, p. 101.

⁽⁴⁾ OJ No C 230, 10. 9. 1981, p. 5.

tion between the Member States and the Commission through a committee on adaptation to scientific and technical progress,

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive lays down, pursuant to Article 7 (3) of Directive 78/176/EEC, the procedures for the surveillance and monitoring of the effects on the environment, having regard to its physical, chemical, biological and ecological aspects, of the discharge, dumping, storage on, tipping on or injection into the ground of waste from the titanium dioxide industry.

Article 2

For the purpose of this Directive:

- 'environments affected' means the water, the land surface and underground strata and the air in or into which waste from the titanium dioxide industry is discharged, dumped, stored, tipped or injected,
- 'sampling point' means the point at which samples are taken.

Article 3

1. The parameters applicable for the surveillance and monitoring referred to in Article 1 are specified in the Annexes.

2. Where a parameter appears in the 'mandatory determination' column in the Annexes, sampling and analysis of the samples must be carried out in respect of the environmental components indicated.

3. Where a parameter appears in the 'optional determination' column in the Annexes, the Member States shall, if they consider it necessary, have the sampling and analysis of samples carried out for the environmental components indicated.

Article 4

1. Member States shall carry out surveillance and monitoring of the environments affected and of a neighbouring zone deemed to be unaffected, special account being taken of local environmental factors and the manner of disposal, i.e. whether intermittent or continuous.

2. Except where otherwise specified in the Annexes, Member States shall determine on a case-by-case basis the exact sites from which samples are to be taken, the distance of these sites from the nearest pollutant disposal point and the depth or height at which the samples must be taken.

The samples must be taken at the same location and depth and under the same conditions in the course of successive sampling operations, for example in the case of tidal waters, at the same time in relation to high tide, tidal coefficient.

3. For the monitoring and inspection of the environments affected, Member States shall determine the frequency of sampling and analysis for each parameter listed in the Annexes.

For parameters where determination is mandatory, the frequency of sampling and analysis must not be less than the minimum frequencies indicated in the Annexes. However, once the behaviour, fate and effects of the waste have, as far as possible, been established, and provided there is no significant deterioration in the quality of the environment, Member States may provide for a frequency of sampling and analysis below these frequencies. Should there subsequently be any significant deterioration in the quality of the environment as a result of the waste or of any change in the disposal operation, the Member State shall revert to sampling and analysis at a frequency not less than that specified in the Annexes. If a Member State considers it necessary or advisable, it may distinguish between different parameters, applying this subparagraph to those parameters where no significant deterioration in the quality of the environment has been recorded.

4. For the monitoring and inspection of an appropriate neighbouring zone deemed to be unaffected, the laying down of the frequency of sampling and analysis shall be assessed by the Member States. When a Member State finds that it is not possible to identify such a neighbouring zone, it shall inform the Commission to that effect.

Article 5

1. The reference methods of measurement for determining the parametric values are specified in the Annexes. Laboratories using other methods must ensure that the results obtained are comparable.

2. The containers used to carry the samples, the agents or methods used to preserve a part sample

with a view to analysis of one or more parameters, the transport and storage of samples and their preparation for analysis must be such that they do not significantly affect the analytical results.

Article 6

For the surveillance and monitoring of the environments affected, Member States may, at any time, lay down other parameters in addition to those laid down by this Directive.

Article 7

1. The report which the Member States are required to forward to the Commission pursuant to Article 14 of Directive 78/176/EEC shall contain details of the surveillance and monitoring operations carried out by the bodies appointed in accordance with Article 7(2) of that Directive. These details shall, in respect of each environment affected, include the following information:

- a description of the sampling point, including its permanent features, which may be coded, and other administrative and geographical information. This information shall be provided only once when the sampling point is designated,
- a description of the sampling methods used,
- the results of the measurements of the parameters whose determination is mandatory and, where Member States consider it useful, also those of parameters whose determination is optional,
- the methods of measurement and analysis used and, where appropriate, their limit of detection, accuracy and precision,
- changes, adopted in accordance with Article 4(3), in the frequency of sampling and analysis.

2. The first set of data to be communicated pursuant to paragraph 1 shall be that gathered during the third year following notification of this Directive.

3. The Commission shall, with the prior agreement of the Member State concerned, publish a summary of the information supplied to it.

4. The Commission shall assess the effectiveness of the procedure for the surveillance and monitoring of the environments affected and shall — no later than six years after notification of this Directive —

place before the Council, if appropriate, proposals to improve this procedure and, if necessary, to harmonize the methods of measurement including their limit of detection, accuracy and precision and the sampling methods.

Article 8

Member States may derogate from this Directive in the event of flooding or natural disaster or on account of exceptional weather conditions.

Article 9

The requisite amendments to adapt the contents of the Annexes as regards:

- parameters listed in the 'optional determination' column,
- reference methods of measurement,

to scientific and technical progress shall be adopted in accordance with the procedure laid down in Article 11.

Article 10

1. A committee on adaptation to technical progress (hereinafter referred to as 'the committee'), consisting of representatives of the Member States and chaired by a Commission representative, is hereby set up.

2. The committee shall draw up its rules of procedure.

Article 11

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the committee by its chairman, either on his own initiative or at the request of the representative of a Member State.

2. The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall give its opinion on the draft within a time limit set by the chairman having regard to the urgency of the matter. Opinions shall be delivered by a majority of 45 votes, the votes of the Member States being weighted as provided in Article 148(2) of the Treaty. The chairman shall not vote.

3. (a) Where the measures envisaged are in accordance with the opinion of the committee, the Commission shall adopt them.

- (b) Where 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 on the measures to be taken. The Council shall act by a qualified majority.
- (c) If the Council has not acted within three months of the proposals being submitted to it, the proposed measures shall be adopted by the Commission.

Article 12

Point (c) of Article 8 (1) of Directive 78/176/EEC is hereby replaced by the following:

- '(c) if the results of the monitoring which the Member States are obliged to carry out on the environment concerned reveal a deterioration in the area under consideration, or'.

Article 13

Where waste elimination requires that, in accordance with Article 4 (1) of Directive 78/176/EEC, the competent authorities of more than one Member State should issue prior authorizations, the Member States involved shall consult each other on the con-

tent and the implementation of the monitoring programme.

Article 14

1. The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within two years following its notification. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the main 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, 3 December 1982.

For the Council

The President

Ch. CHRISTENSEN

ANNEX I

METHOD OF WASTE DISPOSAL: DISCHARGE INTO AIR

Components	Parameters to be determined		Minimum annual sampling and analysis frequency	Comments
	mandatorily	optionally		
Air	Sulphur dioxide (SO ₂) ⁽¹⁾ Chlorine ⁽²⁾	Dust	Continuously	1. Region with surveillance by an existing air pollution surveillance network with at least one station near the production site giving representative readings for pollution emanating from the site
			12 ⁽³⁾	2. Region with no surveillance network. Measurement of total amounts of gaseous discharges emitted by the production site. Where a site has a number of discharge sources, sequential measurements may be made. The reference method of measurement for sulphur dioxide is that given in Annex III to Council Directive 80/779/EEC of 15 July 1980 on air quality limit values and guide values for sulphur dioxide and suspended particulates (OJ No L 229, 30. 8. 1980, p. 30)

⁽¹⁾ If the production process used is the sulphate process.

⁽²⁾ To be used once measuring technology allows continuous measurements to be carried out and where the chlorine process is used.

⁽³⁾ The figures must be sufficiently representative and significant.

ANNEX II

METHOD OF WASTE DISPOSAL: DISCHARGE INTO OR IMMERSION IN SALT WATER
(estuarine, coastal, open sea)

Components	Parameters to be determined		Minimum annual sampling and analysis frequency	Reference method of measurement
	mandatorily	optionally		
Water column Non-filtered sea water ⁽¹⁾	Temperature (°C)		3	Thermometry. Measurement is to be carried out on the spot at the time of sampling
	Salinity (‰)		3	Conductimetry
	pH (pH unit)		3	Electrometry. Measurement is to be carried out on the spot at the time of sampling
	Dissolved O ₂ (mg/O ₂ dissolved/l)		3	— Winkler method — Electrochemical method
	Turbidity (mg solids/l) or suspended matter (mg/l)		3	For turbidity: turbidimetry For suspended matter: gravimetry — Weighing after filtration through 0.45 µm pore size membrane filter and drying at 105 °C — Weighing after centrifugation (minimum time five minutes, average acceleration 2 800 to 3 200 g) and drying at 105° C
	Fe (dissolved and in suspension) (mg/l)		3	After the sample has been appropriately prepared, determination by atomic absorption spectrophotometry or by molecular absorption spectrophotometry
		Cr, total Cd, total Hg (mg/l)	3	— Atomic absorption spectrophotometry — Molecular absorption spectrophotometry
	Ti (mg/l)	V, Mn, Ni, Zn (mg/l)	3	Atomic absorption spectrophotometry
		Cu, Pb (mg/l)	3	— Atomic absorption spectrophotometry — Polarography

⁽¹⁾ Member States may choose whether to analyse non-filtered or filtered water for substances under 'Parameters'.

Components	Parameters to be determined		Minimum annual sampling and analysis frequency	Reference method of measurement
	mandatorily	optionally		
Sea water filtered through 0.45 µm pore size membrane filter ⁽¹⁾	Dissolved Fe (mg/l)		3	Determination by atomic absorption spectrophotometry or by molecular absorption spectrophotometry
		Cr, Cd, Hg (mg/l)	3	— Atomic absorption spectrophotometry — Molecular absorption spectrophotometry
		Ti, V, Mn, Ni, Zn (mg/l)	3	Atomic absorption spectrophotometry
		Cu, Pb (mg/l)	3	— Atomic absorption spectrophotometry — Polarography
Suspended solids remaining in 0.45 µm pore size membrane filter	Total Fe (mg/l)	Cr, Cd, Hg (mg/l)	3	— Atomic absorption spectrophotometry — Molecular absorption spectrophotometry
		Ti, V, Mn, Ni, Zn (mg/l)	3	Atomic absorption spectrophotometry
		Cu, Pb (mg/l)	3	— Atomic absorption spectrophotometry — Polarography
	Hydrated oxides and hydroxides of iron (mg Fe/l)		3	Extraction of the sample under appropriate acid conditions; measurement by atomic absorption spectrophotometry or by molecular absorption spectrophotometry. The same method of acid extraction must be used for all samples coming from the same site

⁽¹⁾ Member States may choose whether to analyse non-filtered or filtered water for substances under 'Parameters'.

Components	Parameters to be determined		Minimum annual sampling and analysis frequency	Reference method of measurement
	mandatorily	optionally		
Sediments In the top layer of sediment as near the surface as possible	Total Ti, Fe (mg/kg dry matter)	V, Cr, Mn, Ni, Cu, Zn, Cd, Hg, Pb (mg/kg dry matter)	1	Identical methods to those for measurements in the water column. After appropriate preparation of the sample (wet or dry mineralization and purification). The quantities of metals must be measured for a specific range of particle sizes
	Hydrated oxides and hydroxides of iron (mg Fe/kg)		1	Identical methods to those for measurements in the water column
Living organisms Species representative of the site: benthic fish and invertebrates or other appropriate species ⁽¹⁾	Ti, Cr, Fe, Ni, Zn, Pb (mg/kg wet and dry weight)	V, Mn, Cu, Cd, Hg (mg/kg wet and dry weight)	1	Atomic absorption spectrophotometry after appropriate preparation of the composite sample of ground flesh (wet or dry mineralization and purification) — For fish, the metals must be measured in muscle or other appropriate tissue; the sample must consist of at least 10 specimens — For molluscs and crustaceans, the metals must be measured in the flesh. The sample must consist of at least 50 specimens
Benthic fauna	Diversity and relative abundance		1	Qualitative and quantitative classification of representative species, indicating the specimen count per species, density, dominance
Planktonic fauna		Diversity and relative abundance	1	Qualitative and quantitative classification of representative species, indicating the specimen count per species, density, dominance
Flora		Diversity and relative abundance	1	Qualitative and quantitative classification of representative species, indicating the specimen count per species, density, dominance
Fish in particular	Presence of morbid anatomical lesions in fish		1	Visual inspection of samples of the representative species taken for chemical analysis

(¹) Species representative of the site of discharge in particular in terms of their sensitivity to bioaccumulation, e.g. *Mytilus edulis*, crangon crangon, flounder, plaice, cod, mackerel, red mullet, herring, sole (or other appropriate benthic species).

ANNEX III

METHOD OF WASTE DISPOSAL: DISCHARGE INTO FRESH SURFACE WATER

Components	Parameters to be determined		Minimum annual sampling and analysis frequency	Reference method of measurement
	mandatorily	optionally		
Water column ⁽¹⁾ Non-filtered fresh water	Temperature (°C)		3	Thermometry. Measurement is to be carried out on the spot at the time of sampling
	Conductivity at 20 °C (µS cm ⁻¹)		3	Electrometric measurement
	pH (pH unit)		3	Electrometry. Measurement is to be carried out on the spot at the time of sampling
	Dissolved O ₂ (dissolved mg O ₂ /l)		3	— Winkler method — Electrochemical method
	Turbidity (mg solids/l or suspended matter (mg/l))		3	For turbidity: turbidimetry For suspended matter: gravimetry — Weighing after filtration through 0.45 µm membrane filter and drying at 105 °C — Weighing after centrifugation (minimum time five minutes, and average acceleration 2 800 to 3 200 g) and drying at 105 °C

⁽¹⁾ Samples must be taken at the same time of the year and if possible at a depth of 50 cm below the surface.

Components	Parameters to be determined		Minimum annual sampling and analysis frequency	Reference method of measurement
	mandatorily	optionally		
Non-filtered fresh water ⁽¹⁾	Fe (dissolved and in suspension) (mg/l)		3	After the sample has been appropriately prepared, determination by atomic absorption spectrophotometry or by molecular absorption spectrophotometry
		Cr, total Cd, total Hg (mg/l)	3	— Atomic absorption spectrophotometry — Molecular absorption spectrophotometry
	Ti (mg/l)	V, Mn, Ni, Zn (mg/l)	3	Atomic absorption spectrophotometry
		Cu, Pb (mg/l)	3	— Atomic absorption spectrophotometry — Polarography
Fresh water filtered through 0.45 µm pore size membrane filter ⁽¹⁾	dissolved Fe (mg/l)		3	Measurement by atomic absorption spectrophotometry or by molecular absorption spectrophotometry
		Cr, Cd, Hg (mg/l)	3	— Atomic absorption — Molecular absorption spectrophotometry
		Ti, V, Mn, Ni, Sn (mg/l)	3	Atomic absorption spectrophotometry
		Cu, Pb (mg/l)	3	— Atomic absorption spectrophotometry — Polarography

⁽¹⁾ Member States may choose whether to analyse non-filtered or filtered water for substances under 'Parameters'.

Components	Parameters to be determined		Minimum annual sampling and analysis frequency	Reference method of measurement
	mandatorily	optionally		
Suspended solids remaining in 0.45 µm pore size membrane filter	Fe (mg/l)	Cr, Cd, Hg (mg/l)	3	— Atomic absorption spectrophotometry — Molecular absorption spectrophotometry
		Ti, V, Mn, Ni, Zn (mg/l)	3	Atomic absorption spectrophotometry
		Cu, Pb (mg/l)	3	— Atomic absorption spectrophotometry — Polarography
	Hydrated oxides and hydroxides of iron (mg Fe/l)		3	Extraction of the sample under appropriate acid conditions, measurement by atomic absorption spectrophotometry or by molecular absorption spectrophotometry. The same method of acid extraction must be used for all samples coming from the same site
Sediments In the top layer of sediment, as near the surface as possible	Ti, Fe (mg/kg dry matter)	V, Cr, Mn, Ni, Cu, Zn, Cd, Hg, Pb (mg/kg dry matter)	1	Identical methods to those for measurements in the water column. After appropriate preparation of the sample (wet or dry mineralization and purification). The quantities of metals must be measured for a specific range of particle sizes
	Hydrated oxides and hydroxides of iron (mg Fe/kg)		1	Identical methods to those for measurements in the water column
Living organisms Species representative of the site	Ti, Cr, Fe, Ni, Zn, Pb (mg/kg wet and dry weight)	V, Mn, Cu, Cd, Hg (mg/kg wet and dry weight)	1	Atomic absorption spectrophotometry after appropriate preparation of the composite sample of ground flesh (wet or dry mineralization and purification) — For fish, the metals must be measured in muscle or other appropriate tissue; the sample must consist of at least 10 specimens — For molluscs and crustaceans, the metals must be measured in the flesh. The sample must consist of at least 50 specimens

Components	Parameters to be determined		Minimum annual sampling and analysis frequency	Reference method of measurement
	mandatorily	optionally		
Benthic fauna	Diversity and relative abundance		1	Qualitative and quantitative classification of representative species, indicating the specimen count per species, density, dominance
Planktonic fauna		Diversity and relative abundance	1	Qualitative and quantitative classification of representative species, indicating the specimen count per species, density, dominance
Flora		Diversity and relative abundance	1	Qualitative and quantitative classification of representative species, indicating the specimen count per species, density, dominance
Fish in particular		Presence of morbid anatomical lesions in fish	1	Visual inspection of samples of the representative species taken for chemical analysis

ANNEX IV

METHOD OF WASTE DISPOSAL: STORAGE AND DUMPING ON LAND

Components	Parameters to be determined		Minimum annual sampling and analysis frequency	Reference method of analysis
	mandatorily	optionally		
1. Unfiltered surface water around the site in the area affected by the storage and at a point outside this area (¹) (²) (³)	pH (pH unit)		1	Electrometry. Measurement is to be carried out at the time of sampling
	SO ₄ (⁴) (mg/l)		1	— Gravimetry — Complexometric titration with EDTA — Molecular absorption spectrophotometry
2. Unfiltered groundwater around the site including, where necessary, outflow points (¹) (²)	Ti (⁵) (mg/l)	V, Mn, Ni, Zn (mg/l)	1	Atomic absorption spectrophotometry
	Fe (⁶) (mg/l)	Cr (mg/l)	1	— Atomic absorption spectrophotometry — Molecular absorption spectrophotometry
	Ca (mg/l)		1	— Atomic absorption spectrophotometry — Complexometric titration
		Cu, Pb (mg/l)	1	— Atomic absorption spectrophotometry — Polarography
	Cl (⁵) (mg/l)		1	Titrimetry (Mohr method)
Environment of the storage and dumping site	Visual inspection of: — topography and site management — effect on sub-soil — ecology of the site		1	Methods to be chosen by Member States

(¹) Sampling must be carried out at the same time of year.

(²) When monitoring surface water and groundwater, particular attention is to be paid to any matter carried by running water from the waste storage area.

(³) Sampling must be carried out 50 cm beneath the surface of the water, if possible.

(⁴) Mandatory determination where storage or dumping contains waste from the sulphate process.

(⁵) Mandatory determination where storage or dumping contains waste from the chlorine process.

(⁶) Also includes the measurement of Fe in the filtrate (suspended solids).

ANNEX V

METHOD OF WASTE DISPOSAL: INJECTION INTO SOIL

Components	Parameters to be determined		Minimum annual sampling frequency and analysis	Reference method of analysis
	mandatorily	optionally		
1. Unfiltered surface water around the site in the zone affected by the injection 2. Unfiltered groundwater around the site including out-flow points	pH (pH unit)		1	Electrometry. Measurement is to be carried out at the time of sampling
	SO ₄ ⁽¹⁾ (mg/l)		1	— Gravimetry — Complexometric titration with EDTA — Molecular absorption spectrophotometry
	Ti ⁽²⁾ (mg/l)	V, Mn, Ni, Zn (mg/l)	1	Atomic absorption spectrophotometry
	Fe ⁽³⁾ (mg/l)	Cr (mg/l)	1	— Atomic absorption spectrophotometry — Molecular absorption spectrophotometry
	Ca (mg/l)		1	— Atomic absorption spectrophotometry — Complexometric titration
		Cu, Pb (mg/l)	1	— Atomic absorption spectrophotometry — Polarography
	Cl ⁽²⁾ (mg/l)		1	Titrimetry (Mohr method)
Environment Topography	Ground stability		1	Photographic and topographic survey
	Permeability Porosity		1	Pumping tests Well-logging

⁽¹⁾ Mandatory determination where waste from the sulphate process is injected into soil.

⁽²⁾ Mandatory determination where waste from the chlorine process is injected into soil.

⁽³⁾ Also includes the measurement of Fe in the filtrate (suspended solids).

COUNCIL DIRECTIVE**of 3 December 1982****on a limit value for lead in the air****(82/884/EEC)**

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 one of the essential tasks of the European Economic Community is to promote throughout the Community a harmonious development of economic activities and a continuous and balanced expansion, which cannot be imagined in the absence of a campaign to combat pollution and nuisances or of an improvement in the quality of life and the protection of the environment;

Whereas the use of lead is currently causing lead contamination of many areas of the environment;

Whereas inhaled lead contributes significantly to the total body burden of lead;

Whereas the protection of human health against the hazards of lead requires that the individual's exposure to lead in the air be monitored;

Whereas the first ⁽⁴⁾ and second ⁽⁵⁾ programme of action of the European Communities on the environment state that this pollutant should receive priority consideration; whereas the said programmes provide for the coordination of national programmes in this field and for the harmonization of national policies within the Community on the basis

of a common long-term plan aiming at improving the quality of life; whereas since the specific powers of action required to this end have not been provided for in the Treaty, it is necessary to invoke Article 235 thereof;

Whereas insufficient technical and scientific information is available to enable the Council to lay down specific standards for the environment generally; whereas the adoption of limit values for the protection of human health will contribute to the protection of the environment as well;

Whereas it is desirable to fix a limit value for lead in the air;

Whereas the measures taken pursuant to this Directive must be economically feasible and compatible with balanced development; whereas in consequence a sufficient time limit should be laid down for its implementation; whereas account should also be taken of the provisions of Council Directive 78/611/EEC of 29 June 1978 on the approximation of the laws of the Member States concerning the lead content of petrol ⁽⁶⁾;

Whereas it is desirable to monitor the quality of the air in places where people may be exposed continuously and for a long period and where there is a risk that the limit value may not be observed;

Whereas it is important that the Commission should obtain information concerning the sites used for sampling, the sampling and analysis procedures used to determine the concentration of lead in the air, the places where the limit value laid down in the Directive has been exceeded and the concentrations measured in these places as well as the measures taken to avoid a repetition of the occurrence;

Whereas each year as from the second year after the implementation of this Directive the Commission should publish a summary report on the implemen-

⁽¹⁾ OJ No C 154, 7. 7. 1975, p. 29.

⁽²⁾ OJ No C 28, 9. 2. 1976, p. 31.

⁽³⁾ OJ No C 50, 4. 3. 1976, p. 9.

⁽⁴⁾ OJ No C 112, 20. 12. 1973, p. 1.

⁽⁵⁾ OJ No C 139, 13. 6. 1977, p. 1.

⁽⁶⁾ OJ No L 197, 22. 7. 1978, p. 19.

tation of national provisions adopted pursuant to the Directive;

Whereas the application of the measures taken pursuant to this Directive should not lead to a noticeable deterioration of the quality of the air where the level of lead pollution observed when the Directive is implemented is lower than the limit value fixed;

Whereas, to implement the Directive, it is desirable to comply with the characteristics adopted in the Annex for choosing the sampling method; whereas, to analyze the samples taken, it is desirable to use the reference method adopted in the Annex or any other method for which the Commission has previously had proof that it provides equivalent results;

Whereas further development of the characteristics to be complied with for choosing a sampling method and the reference method of analysis, set out in the Annex to this Directive, may be desirable in the light of technical and scientific progress achieved in this field; whereas, to facilitate the implementation of the necessary work, it is desirable to provide for a procedure introducing close cooperation between the Member States and the Commission within a committee responsible for adapting the Directive to scientific and technical progress,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive shall fix a limit value for lead in the air specifically in order to help protect human beings against the effects of lead in the environment.

2. This Directive shall not apply to occupational exposure.

Article 2

1. For the purpose of this Directive, 'limit value' means the concentration of lead in the air which, subject to the conditions laid down hereinafter, must not be exceeded.

2. The limit value shall be 2 micrograms Pb/m³ expressed as an annual mean concentration.

3. Member States may, at any time, fix a value more stringent than that laid down in this Directive.

Article 3

1. Member States shall take the necessary measures to ensure that five years after notification of this Directive, the concentration of lead in the air, measured in accordance with Article 4, is not greater than the limit value given in Article 2.

2. Where a Member State considers that the limit value fixed in Article 2 (2) may be exceeded in certain places four years after notification of this Directive, it shall inform the Commission thereof.

3. The Member States concerned shall, within two years of the implementation of this Directive, forward to the Commission plans for the progressive improvement of the quality of the air in such places. These plans, drawn up on the basis of relevant information as to the nature, origin and development of the pollution, shall in particular describe the measures already taken or envisaged and the procedures implemented or planned by the Member States concerned. The objective of these measures and procedures must be to bring the concentration of lead in the air in those places below the level of the limit value fixed in Article 2 (2) or down to that level, as soon as possible and at the latest seven years after notification of this Directive. These measures and procedures must take into account the provisions of Directive 78/611/EEC and the results of its application.

Article 4

Member States shall ensure that sampling stations are installed and operated at places where individuals may be exposed continually for a long period and where they consider that Articles 1 and 2 are likely not to be observed.

Article 5

1. For the purposes of applying this Directive, the Member States shall provide the Commission at its request with information on:

- the sites used for sampling,
- the sampling and analysis procedures used to determine the concentration of lead in the air.

2. Member States shall inform the Commission not later than 1 July of each year, beginning in the calendar year following the implementation of this Directive, of the places in which the limit value fixed in Article 2 (2) has been exceeded in the previous calendar year and of the concentrations recorded.

3. They shall also notify the Commission, not later than during the calendar year following that in which the limit values were exceeded, of the measures they have taken to avoid recurrence.

Article 6

The Commission shall each year publish a summary report on the application of this Directive, commencing in the second year following its implementation.

Article 7

Application of the measures taken pursuant to this Directive must not bring about a significant deterioration in the quality of the air where the level of pollution by lead, at the time of implementation of this Directive, is low in relation to the limit value fixed in Article 2 (2).

Article 8

For the purposes of applying this Directive, Member States shall comply with the characteristics laid down in the Annex for choosing the sampling method; for analyzing the samples taken, Member States shall use the reference method mentioned in the Annex or any other method which they prove to the Commission beforehand produces equivalent results.

Article 9

The procedure in Articles 10 and 11 for the adaptation of this Directive to scientific and technical progress shall relate to the characteristics to be complied with for choosing a sampling method and the reference method referred to in the Annex.

This adaptation must not have the effect of directly or indirectly modifying the application of the actual concentration value fixed in Article 2 (2).

Article 10

1. A committee on the adaptation of this Directive to scientific and technical progress hereinafter called 'the committee', is hereby set up; it shall consist of representatives of the Member States with a Commission representative as chairman.

2. The committee shall adopt its own rules of procedure.

Article 11

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the committee by its chairman, either on his own initiative or at the request of a representative of a Member State.

2. The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall give its opinion on that draft within a time limit set by the chairman having regard to the urgency of the matter. Opinions shall be delivered by a majority of 45 votes, the votes of the Member States being weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote.

3. Where the measures envisaged are in accordance with the opinion of the committee, the Commission shall adopt them.

Where 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 on the measures to be taken. The Council shall act by a qualified majority.

If within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 12

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within 24 months of its notification and shall forthwith inform the Commission thereof.

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

Article 13

This Directive is addressed to the Member States.

Done at Brussels, 3 December 1982.

For the Council

The President

Ch. CHRISTENSEN

ANNEX

CHARACTERISTICS TO BE COMPLIED WITH FOR CHOOSING A SAMPLING METHOD AND A REFERENCE METHOD FOR ANALYZING THE CONCENTRATION OF LEAD IN THE AIR

The atmospheric particles shall be collected on the filter of a sample for subsequent determination of lead content.

A. Characteristics to be complied with for choosing the sampling method

1. Filter

The filter shall have a collection efficiency at the face velocity used in the sampling of not less than 99 % for all particles of a mean aerodynamic diameter of 0.3 μm .

2. Sampler efficiency

The sampler efficiency is defined as the ratio of the mass concentration of the particles in the air, as collected on the filter, to the concentration in the atmosphere. The efficiency of a sampler may not be less than the values given in the following table and must be independent of wind direction.

Minimum acceptable efficiencies (%) for a sampler

Wind speed	Particle size (aerodynamic diameter)	
	5 μm	10 μm
2 ms^{-1}	95	65
4 ms^{-1}	95	60
6 ms^{-1}	85	40

3. Aspiration flow rate of sampling

The aspiration flow rate of sampling must remain constant to within $\pm 5\%$ of the nominal value throughout a sampling period.

4. Location

As far as possible the sampling stations (or samplers) must be located in such a way as to be representative of the zones in which measurements must be made.

5. Operation

Sampling must be continuous although breaks of a few minutes each day or week are permissible to enable filters to be changed. An annual mean value will not be considered valid unless sampling has occurred on a minimum of 10 working days per month, during the first five years after the notification of the Directive and on a minimum of 15 working days per month thereafter, as far as possible, evenly spread over the period under consideration. The mean annual value is calculated by dividing the sum of the valid daily values by the number of days on which valid values have been obtained.

B. Reference method of analysis

The reference method of analysis shall be atomic absorption spectrometry in which the analytical error for the determination of lead in the collected particles is less than a value corresponding to an atmospheric concentration of 0.1 $\mu\text{g m}^{-3}$ of lead (5 % of the 2 $\mu\text{g m}^{-3}$ limit value). This analytical error should be maintained within the specified range by an appropriate calibration frequency.

COUNCIL DIRECTIVE**of 10 December 1982****amending Directive 78/170/EEC on the performance of heat generators for space heating and the production of hot water in new or existing non-industrial buildings and on the insulation of heat and domestic hot-water distribution in new non-industrial buildings****(82/885/EEC)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 103 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 Directive 78/170/EEC ⁽³⁾ requires Member States to take all necessary measures to ensure that all new heat generators for space heating and/or the production of domestic hot water in new or existing non-industrial buildings comply with minimum performance requirements;

Whereas the said Directive provides that compliance with these minimum performance requirements should be assured by an inspection carried out either at the stage of manufacture of the generator or at the time of installation;

Whereas it further provides that, in the case of heat generators subject to inspection at the time of installation, energy losses must not exceed the levels laid down by the Member States;

Whereas it nevertheless provides that those appliances for which type-testing is not practicable will be the subject of a subsequent proposal after appropriate technical studies have been carried out;

Whereas, these studies having been duly completed, appropriate measures should be adopted in respect of the said heat generators;

Whereas these studies show the need to provide for the possibility of an interval between the time of installation of a generator for which type-testing is not practicable and the time at which an on-site inspection is carried out;

Whereas, moreover, these studies have led to the drafting of a code of practice indicating the procedures to be followed for the on-site performance testing of a liquid or gaseous fuel fired heat generator subject to inspection in connection with its installation;

Whereas it is consequently necessary for inspections of the generators in question to be carried out in compliance with the said code, which constitutes a minimum common basis throughout the Community; whereas the provisions of the code do not apply to solid-fuel heat generators;

Whereas it is appropriate that, in order to permit ready verification of compliance with the rules relating to an inspection carried out in connection with installation, provision be made for a data plate similar to that laid down for heat generators inspected at the stage of manufacture; whereas this plate may be replaced by the inspection report; whereas, in the event of non-compliance with the performance requirements or levels of energy loss, the inspection report will be sent to the competent administrative authority;

Whereas the measures adopted to implement this Directive should incorporate the measures adopted for the approximation of the laws of the Member States in the fields concerned by this Directive and should be directed towards facilitating the work on harmonization or standardization in progress or to be undertaken in these fields at Community level or internationally;

Whereas Directive 78/170/EEC should therefore be amended,

⁽¹⁾ OJ No C 175, 14. 7. 1980, p. 12.

⁽²⁾ OJ No C 300, 18. 11. 1980, p. 6.

⁽³⁾ OJ No L 52, 23. 2. 1978, p. 32.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 78/170/EEC is hereby amended as follows:

1. The words 'economically justifiable' shall be inserted before the words 'minimum performance requirements' in the first subparagraph of Article 1 (1);

2. The fourth subparagraph of Article 1 (1) shall be replaced by the following:

'Electric heat generators with resistances, heat pumps and connections to a remote heating network shall be excluded.';

3. The last subparagraph of Article 1 (1) shall be deleted;

4. The following paragraphs shall be inserted in Article 1:

'3a. Heat generators subject to inspection at the time of installation which do not comply with minimum performance requirements shall be the subject of a decision by the competent administrative authority, which may even order that a generator be taken out of service; compliance with these requirements shall be certified by means of a data plate giving at least the details provided for in paragraph 3, with the exception of the last indent regarding the consumption of the generator when working to rated capacity.

Indication of the maximum temperature of the heating fluid provided for in the fifth indent may be omitted if the temperature is specified in another document.

The inspecting body shall be required to provide the user with an inspection report in a form laid down by the Member State; this report must state, in particular, the details which must be given on the data plate provided for in the first subparagraph; It may replace the plate.

When an inspection report states that a heat generator fails to comply with the minimum performance requirements, the inspecting body shall forward a copy of the report to the competent administrative authority. In the case of any heat generator coming from another Member State the competent administrative authority of the place where the inspection is carried out

shall, with the owner's consent, provide the supplier, at the latter's request, with a copy of the inspection report.

3b. The inspection of heat generators at the time of installation shall be carried out in compliance with the code of practice annexed to this Directive. The provisions of the code shall constitute a minimum common basis for the inspection procedure throughout the Community. They may be supplemented, but not cancelled or contradicted, by provisions decided upon by the Member States. The provisions of the code shall not apply to solid-fuel fired heat generators or to condensing boilers.';

5. Article 1 (4) shall be replaced by the following:

'4. In the case of heat generators subject to inspection at the time of installation, Member States may fix, instead of minimum performance requirements, maximum levels of energy loss in accordance with point 3.1 of the code of practice.

In such case, the provisions of paragraphs 3a and 3b shall apply'.

Article 2

The Annex to this Directive shall be added to Directive 78/170/EEC.

Article 3

Member States shall adopt the measures relating to the testing of heat generators at the time of installation within 18 months of notification of this Directive.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 10 December 1982.

For the Council

The President

G. FENGER MØLLER

*ANNEX***CODE OF PRACTICE FOR TESTING THE PERFORMANCE AT THE TIME OF
INSTALLATION OF A LIQUID OR GASEOUS-FUEL FIRED HEAT GENERATOR
USED IN A NON-INDUSTRIAL BUILDING FOR SPACE HEATING AND/OR THE
PRODUCTION OF DOMESTIC HOT WATER****TEST PROCEDURE AND DETERMINATION OF LOSSES****1. GENERAL**

- 1.1. In the case of a heat generator capable of using various types of fuel (liquid or gaseous), the test shall be carried out with a fuel of each type which is in conformity with the manufacturer's specifications and available at the time of the test.
- 1.2. The exit for the flue-gases shall be provided with an aperture for the insertion of measuring probes and for smoke sampling.
- 1.3. The accuracy of each measurement must be such as to enable the overall accuracy of results specified by the Member States to be obtained.
- 1.4. The test will be carried out within a reasonable period of time and preferably at the nominal calorific output of the generator. Where this is impossible, the next-closest load should be used. If the generator is designed to operate at two or at several loads, a reduced load test may also be carried out at the request of the Member States. The loads used shall be assessed by a reliable method.
- 1.5. Performance, whether determined by the direct or indirect method, shall be expressed as a percentage on the basis of the net or gross calorific value of the fuel injected into the burner at the load assessed as indicated in 1.4.

2. TEST CONDITIONS**2.1. Preparation of the generator**

- 2.1.1. It shall be the responsibility of the user, with the possible help of the manufacturer and/or the installer, to carry out before the test any cleaning, regulation and preparation of the generator which he considers necessary. The competent administrative authorities may make such cleaning compulsory.
- 2.1.2. The leak tightness of the generator and of its connection with the flue shall be checked.

2.2. Identification of the generator

- 2.2.1. Prior to the test, the inspecting body (hereinafter called 'the body') shall record all necessary data for identification of the generator, and at least the generator's features or specifications as stated for example on the data plate and/or in the instructions for assembly and operation given to the user with regard to manufacturer, make, year of manufacture and heat rating.
- 2.2.2. The body shall check that the necessary conditions are fulfilled for ensuring that no disturbance occurs during the test which is likely to adversely affect its validity. To this end

it shall in particular require the user to produce the certificates — or provide any other means of proof — establishing that the safety checks laid down for the boiler-room and boiler-room premises have been carried out. This condition may be deemed to have been fulfilled in Member States where heat generators cannot be installed or put into operation without prior safety checks. If no such checks are required by national law, the body is entitled to reasonable assurance of safe working conditions before it carries out the check.

Should it fail to obtain satisfaction on the above points, the body may refuse to carry out the check; in that event it shall draw up an *ad hoc* report.

2.3. Preliminary running

- 2.3.1. Prior to the test, preliminary running may be carried out by the body in order to check and pre-set the functioning of the measuring equipment installed for checking purposes. The body shall ensure that all measurements are to the required degree of accuracy. More specifically, if the body decides to use certain measuring instruments forming part of the installation's normal equipment, it must check that these meet the desired conditions as regards standards of accuracy and reliability.
- 2.3.2. It shall be the responsibility of the user, assisted by the manufacturer and/or the installer, with the permission of the generator's owner, to carry out any final adjustments to the generator which may be necessary and to provide any additional explanations of the various instructions so as to create optimum test conditions.

2.4. The test

- 2.4.1. Testing operations shall be the responsibility of the body alone.
- 2.4.2. The test shall be carried out under steady-state conditions, with the fuel and combustion-air flow rates kept constant.
- 2.4.3. During the test the body shall take the compulsory measurements provided for under 3 and, if appropriate, the optional measurements provided for under 4. It shall draw up a report as provided in 5.

3. DETERMINATION OF LOSSES VIA FLUE GASES

3.1. Measurement of sensible-heat losses

Where performance is determined by the indirect method, the body shall be entitled to measure the percentage by volume by either carbon dioxide or oxygen in the flue gases.

It shall then apply a formula which in addition to the temperature difference between flue gases and combustion air incorporates adequate constants. The formula and constants must have been published by the Member State under whose jurisdiction the inspecting body comes or be laid down in a standard.

In the absence of official regulations or a standard, sensible-heat losses may be calculated from the characteristics of the fuel, its calorific value and the volume of excess air by using tables giving the specific heat of combustion gases such as those established by the 12th World Gas Congress (IGU/E/17/73).

The above procedure shall not apply to condensing boilers.

3.2. Measurement of flue-gas capacity

The body shall carry out this measurement where the generator uses a liquid fuel or a liquefied petroleum gas (LPG) injected in liquid form; measurement shall be by means of an adequate instrument; the result shall be expressed as a conventional smoke number (0 to 9).

4. OTHER CHECKS (OPTIONAL)

4.1. **Traces of carbon monoxide**

The body may be empowered to check that generator flue-gases do not contain carbon monoxide in such quantities as to cast doubts on the results of measurements made in accordance with 3.1.

4.2. **Losses through the heat generator casing**

In those Member States where there are neither regulations nor technical rules or other provisions on the subject, the body may be authorized to assess casing losses from data provided by the manufacturer and/or from surface temperatures observed during the test.

5. TEST REPORT

After the test the body shall draw up a report in the form laid down by the Member State, giving the generator's main features, the measurements taken, the formula used to calculate losses and the heat generator's performance.

COUNCIL DECISION**of 13 December 1982****concerning the conclusion of the Convention for the Conservation of Salmon in the North Atlantic Ocean****(82/886/EEC)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the recommendation from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas international cooperation is essential to ensure the conservation, restoration, enhancement and rational management of salmon stocks in the North Atlantic Ocean;

Whereas the Community participated in negotiations which culminated in the adoption by a diplomatic conference held in Reykjavik from 18 to 22 January 1982 of a Convention for the Conservation of Salmon in the North Atlantic Ocean;

Whereas this Convention takes into account the provisions on anadromous stocks of fish in the Draft Convention of the Third United Nations Conference on the Law of the Sea;

Whereas the Convention provides a useful framework for international cooperation to ensure the

conservation, restoration, enhancement and rational management of salmon stocks in the North Atlantic Ocean;

Whereas the Convention establishes a satisfactory balance between the interests of States in whose rivers salmon originate and other States in whose areas of fishery jurisdiction salmon are fished,

HAS DECIDED AS FOLLOWS:

Sole Article

The Convention for the Conservation of Salmon in the North Atlantic Ocean is hereby approved on behalf of the European Economic Community.

The text of the Convention is attached to this Decision.

Done at Brussels, 13 December 1982.

For the Council

The President

N. A. KOFOED

(1) OJ No C 238, 13. 9. 1982, p. 106.

CONVENTION FOR THE CONSERVATION OF SALMON IN THE NORTH ATLANTIC OCEAN

THE PARTIES to this Convention,

RECOGNIZING that salmon originating in the rivers of different States intermingle in certain parts of the North Atlantic Ocean,

TAKING INTO ACCOUNT international law, the provisions on anadromous stocks of fish in the Draft Convention of the Third United Nations Conference on the Law of the Sea and other developments in international fora relating to anadromous stocks,

DESIRING to promote the acquisition, analysis and dissemination of scientific information pertaining to salmon stocks in the North Atlantic Ocean,

DESIRING to promote the conservation, restoration, enhancement and rational management of salmon stocks in the North Atlantic Ocean through international cooperation,

HAVE AGREED AS FOLLOWS:

Article 1

1. This Convention applies to the salmon stocks which migrate beyond areas of fisheries jurisdiction of coastal States of the Atlantic Ocean north of 36° N latitude throughout their migratory range.

2. Nothing in this Convention shall effect the rights, claims or views of any party with regard to the limits or extent of jurisdiction over fisheries, nor shall it prejudice the views or positions of any party with respect to the law of the sea.

Article 2

1. Fishing of salmon is prohibited beyond areas of fisheries jurisdiction of coastal States.

2. Within areas of fisheries jurisdiction of coastal States, fishing of salmon is prohibited beyond 12 nautical miles from the baselines from which the breadth of the territorial sea is measured, except in the following areas:

- (a) in the West Greenland Commission area, up to 40 nautical miles from the baselines; and
- (b) in the North-East Atlantic Commission area, within the area of fisheries jurisdiction of the Faroe Islands.

3. The parties shall invite the attention of any State not a party to this Convention to any matter

relating to the activities of the vessels of that State which appears to affect adversely the conservation, restoration, enhancement or rational management of salmon stocks subject to this Convention or the implementation of the Convention.

Article 3

1. There is hereby established an international organization that shall be known as the North Atlantic Salmon Conservation Organization, hereinafter referred to as 'the organization'.

2. The objective of the organization shall be to contribute through consultation and cooperation to the conservation, restoration, enhancement and rational management of salmon stocks subject to this Convention, taking into account the best scientific evidence available to it.

3. The organization shall consist of:

- (a) a council;
- (b) three regional commissions:
 - a North American Commission,
 - a West Greenland Commission, and
 - a North-East Atlantic Commission; and
- (c) a secretary.

4. The areas of the commissions shall be as follows:

- (a) North American Commission: maritime waters within areas of fisheries jurisdiction of coastal States off the east coast of North America;
- (b) West Greenland Commission: maritime waters within the area of fisheries jurisdiction off the coast of West Greenland west of a line drawn along 44°W longitude south to 59°N latitude, thence due east to 42°W longitude and thence due south; and
- (c) North-East Atlantic Commission: maritime waters east of the line referred to in subparagraph (b).

5. The organization shall have legal personality and shall enjoy in the territories of the parties and in its relations with other international organizations such legal capacity as may be necessary to perform its functions and achieve its ends. The immunities and privileges which the organization, its officers and staff and representatives of the parties shall enjoy in the territory of a State shall be subject to agreement between the organization and the State concerned.

6. The official languages of the organization shall be English and French.

7. The office of the organization shall be at Edinburgh or at such other place as the council may decide.

Article 4

1. The functions of the council shall be:

- (a) to provide a forum for the study, analysis and exchange of information among the parties on matters concerning the salmon stocks subject to this Convention, and on the achievement of the objective of the Convention;
- (b) to provide a forum for consultation and cooperation on matters concerning the salmon stocks in the North Atlantic Ocean beyond Commission areas;
- (c) to facilitate the coordination of the activities of the commissions and to coordinate the initiatives of the parties under Article 2 (3);
- (d) to establish working arrangements with the International Council for the Exploration of the Sea and other appropriate fisheries and scientific organizations;

- (e) to make recommendations to the parties, the International Council for the Exploration of the Sea or other appropriate fisheries and scientific organizations concerning the undertaking of scientific research;
- (f) to supervise and coordinate the administrative, financial and other internal affairs of the organization, including the relations among its constituent bodies;
- (g) to coordinate the external relations of the organization; and
- (h) to perform such other functions as are conferred on it by this Convention.

2. The council shall have the authority to make recommendations to the parties and the commissions on matters concerning salmon stocks subject to this Convention, including the enforcement of laws and regulations, provided that no recommendation shall be made concerning the management of salmon harvests within the area of fisheries jurisdiction of a party.

3. Notwithstanding paragraph 2, upon the specific request of a commission, the council shall have the authority to make recommendations to that commission on regulatory measures which the commission may propose pursuant to this Convention.

Article 5

1. Each party shall be a member of the council and may appoint to the council not more than three representatives who may be accompanied at its meetings by experts and advisers.

2. The council shall elect a president and vice-president who shall serve for two years. They shall be eligible for re-election, provided that they not serve for more than four years in succession in each office. The president and vice-president shall not be representatives of the same party.

3. The president of the council shall be the principal representative of the organization.

4. The president shall convene a regular annual meeting of the council and the commissions at a time and place determined by the council.

5. Upon the request of a party with the concurrence of another party the president shall call meetings of the council other than annual meetings at such time and place as the president may determine.

6. The council shall submit to the parties an annual report of the activities of the organization.

Article 6

1. The council shall adopt its rules of procedure.
2. Each member of the council shall have one vote in its proceedings.
3. Except where otherwise provided, decisions of the council shall be taken by a three-quarters majority of the votes of the members present and casting an affirmative or negative vote. No vote shall be taken unless two-thirds of the members are present.

Article 7

1. The functions of the North American Commission with regard to its area shall be:
 - (a) to provide a forum for consultation and cooperation between the members:
 - (i) on matters related to minimizing catches in the area of fisheries jurisdiction of one member of salmon originating in the rivers of another party, and
 - (ii) in cases where activities undertaken or proposed by one member affect salmon originating in the rivers of the other member because, for example, of biological interactions;
 - (b) to propose regulatory measures for salmon fisheries under the jurisdiction of a member which harvest amounts of salmon significant to the other member in whose rivers that salmon originates, in order to minimize such harvests;
 - (c) to propose regulatory measures for salmon fisheries under the jurisdiction of a member which harvest amounts of salmon significant to another party in whose rivers that salmon originates; and
 - (d) to make recommendations to the council concerning the undertaking of scientific research.
2. Each member shall, with respect to its vessels and the area under its fisheries jurisdiction, take the measures necessary to minimize by-catches of salmon originating in the rivers of the other member.
3. Fishing patterns in salmon fisheries in the North American Commission area shall not be altered in a manner which results in the initiation of fishing or increase in catches of salmon originating in the

rivers of another party, except with the consent of the latter.

Article 8

The functions of the West Greenland Commission and the North-East Atlantic Commission with regard to their respective areas shall be:

- (a) to provide a forum for consultation and cooperation among the members concerning the conservation, restoration, enhancement and rational management of salmon stocks subject to this Convention;
- (b) to propose regulatory measures for fishing in the area of fisheries jurisdiction of a member of salmon originating in the rivers of other parties; and
- (c) to make recommendations to the council concerning the undertaking of scientific research.

Article 9

In exercising the functions set out in Articles 7 and 8, a commission shall take into account:

- (a) the best available information, including advice from the International Council for the Exploration of the Sea and other appropriate scientific organizations;
- (b) measures taken and other factors, both inside and outside the commission area, that affect the salmon stocks concerned;
- (c) the efforts of States of origin to implement and enforce measures for the conservation, restoration, enhancement and rational management of salmon stocks in their rivers and areas of fisheries jurisdiction, including measures referred to in Article 15 (5) (b);
- (d) the extent to which the salmon stocks concerned feed in the areas of fisheries jurisdiction of the respective parties;
- (e) the relative effects of harvesting salmon at different stages of their migration routes;
- (f) the contribution of parties other than States of origin to the conservation of salmon stocks which migrate into their areas of fisheries jurisdiction by limiting their catches of such stocks or by other measures; and

- (g) the interests of communities which are particularly dependent on salmon fisheries.

Article 10

1. The parties shall be members of the commissions as follows:

- (a) North American Commission: Canada and the United States of America;
- (b) West Greenland Commission: Canada, the European Economic Community and the United States of America;
- (c) North-East Atlantic Commission: Denmark in respect of the Faroe Islands, the European Economic Community, Iceland, Norway and Sweden.

2. At its first meeting the council shall review and may by unanimous vote modify the membership of the West Greenland Commission.

3. A party not mentioned in paragraph 1 (b) may, at its request and upon the unanimous decision of the council, become a member of the West Greenland Commission or the North-East Atlantic Commission if it is a State of origin for significant quantities of salmon occurring in the respective commission area or if it exercises fisheries jurisdiction in that area.

4. Parties may participate as observers in the deliberations of a commission of which they are not members.

5. Each member may appoint to a commission not more than three representatives who may be accompanied at its meetings by experts and advisers.

6. Each commission shall elect a chairman and vice-chairman who shall serve for two years. They shall be eligible for re-election, provided that they not serve for more than four years in succession in each office. The chairman and vice-chairman shall not be representatives of the same member.

7. Upon the request of a member of a commission with the concurrence of another member the chairman shall call meetings of the commission other than annual meetings at such time and place as the chairman may determine.

8. Each commission shall, on a timely basis, make a report of its activities to the council.

Article 11

1. Each commission shall adopt its rules of procedure.

2. Each member of a commission shall have one vote in its proceedings. In addition, in the case of the North American Commission, the European Economic Community shall have the right to submit and vote on proposals for regulatory measures concerning salmon stocks originating in the territories referred to in Article 18. In the case of the North-East Atlantic Commission, Canada and the United States of America shall each have the right to submit and vote on proposals for regulatory measures concerning salmon stocks originating in the rivers of Canada or the United States of America, respectively, and occurring off East Greenland.

3. Decisions of a commission shall be taken by the unanimous vote of those present and casting an affirmative or negative vote. No vote shall be taken unless two-thirds of those entitled to vote on the matter concerned are present.

Article 12

1. The council shall appoint a secretary, who shall be the chief administrative officer of the organization.

2. The functions of the secretary shall be:

- (a) to provide administrative services to the organization;
- (b) to compile and disseminate statistics and reports concerning the salmon stocks subject to this Convention; and
- (c) to perform such functions as follow from other provisions of this Convention or as the council may determine.

3. The council shall determine the conditions of employment of the secretary and staff.

4. The secretary shall appoint the staff in accordance with staffing requirements approved by the council. The staff shall be responsible to the secretary, subject to the general supervision of the council.

Article 13

1. The secretary shall, without undue delay, notify the members of a commission of any regulatory measure proposed by the commission.

2. Subject to paragraph 3, a regulatory measure proposed by a commission under Article 7 (1) (b) or (c), or Article 8 (b), shall become binding on its members 60 days after the date specified in the secretary's notification or, if a later date is determined by the commission, on such date.

3. Any member in whose area of fisheries jurisdiction a regulatory measure would apply may, within 60 days of the date specified in the secretary's notification, lodge an objection to it. In this case the regulatory measure shall not become binding on any member. A member which has lodged an objection may at any time withdraw it. 30 days after all objections are withdrawn the regulatory measure shall become binding, subject to paragraph 2.

4. After the expiration of one year from the date on which a regulatory measure becomes binding, any member in whose area of fisheries jurisdiction the regulatory measure applies may denounce it by written notice to the secretary. The secretary shall immediately inform the other members of such denunciation. The regulatory measure shall cease to be binding on all members 60 days after the date of receipt by the secretary of the notice of denunciation or, if a later date is indicated by the member, on such date.

5. A commission may propose an emergency regulatory measure having effect prior to the expiration of the 60-day period referred to in paragraph 2. The members shall make best efforts to implement the measure, unless there is an objection by a member within 30 days after the commission has proposed it.

Article 14

1. Each party shall ensure that such action is taken, including the imposition of adequate penalties for violations, as may be necessary to make effective the provisions of this Convention and to implement regulatory measures which become binding on it under Article 13.

2. Each party shall transmit to the Council an annual statement of the actions taken pursuant to paragraph 1. Such statement shall be sent to the secretary not later than 60 days before the annual meeting of the council.

Article 15

1. Each party shall provide to the council available catch statistics for salmon stocks subject to this Convention taken in its rivers and area of fisheries

jurisdiction at such intervals as the council may determine.

2. Each party shall compile and provide to the council such other statistics for salmon stocks subject to this Convention in its rivers and area of fisheries jurisdiction as required by the council. The council shall decide by unanimous vote the scope and form of such statistics and the intervals at which they shall be provided.

3. Each party shall provide the council with any other available scientific and statistical information which it requires for the purposes of this Convention.

4. Upon the request of the council each party shall provide to the council copies of laws, regulations and programmes in force or, where appropriate, summaries thereof, relating to the conservation, restoration, enhancement and rational management of salmon stocks subject to this Convention in its rivers and area of fisheries jurisdiction.

5. Each year each party shall notify the council of:

- (a) the adoption or repeal since its last notification of laws, regulations and programmes relating to the conservation, restoration, enhancement and rational management of salmon stocks subject to this Convention in its rivers and area of fisheries jurisdiction;
- (b) any commitments by the responsible authorities concerning the adoption or maintenance in force for specified periods of time within its territory or area of fisheries jurisdiction of measures relating to the conservation, restoration, enhancement and rational management of salmon stocks subject to this Convention; and
- (c) factors within its territory and area of fisheries jurisdiction which may significantly affect the abundance of salmon stocks subject to this Convention.

6. The notifications referred to in paragraph 5 (a) shall be sent to the secretary not later than 60 days before the annual meeting of the council. The notifications referred to in paragraph 5 (b) and (c) shall be sent to the secretary as soon as practicable.

Article 16

1. The council shall adopt an annual budget for the organization. The secretary shall transmit a draft

budget to the parties, together with a schedule of contributions, not later than 60 days before the meeting of the council at which the budget is to be considered.

2. The council shall determine the annual contribution of each party according to the following formula:

- (a) 30 % of the budget shall be divided equally among the parties; and
- (b) 70 % of the budget shall be divided among the parties in proportion to their nominal catches of salmon subject to this Convention in the calendar year ending not more than 18 months and not less than six months before the beginning of the financial year.

3. The secretary shall notify each party of its contribution. Contributions shall be paid not later than four months after the date of such notification.

4. Contributions shall be payable in the currency of the State in which the office of the organization is located, unless the council decides otherwise.

5. The contribution of a party for which this Convention has entered into force during the course of a financial year shall for that year be a part of the annual contribution proportional to the number of complete months remaining in the year from the date of entry into force for that party.

6. A party which has not paid its contributions for two consecutive years shall not be entitled to vote under this Convention until it has fulfilled its obligations, unless the council decides otherwise.

7. The financial affairs of the organization shall be audited annually by external auditors to be selected by the council.

Article 17

1. This Convention shall be open for signature at Reykjavik from 2 March to 31 August 1982 by Canada, Denmark in respect of the Faroe Islands, the European Economic Community, Iceland, Norway, Sweden and the United States of America.

2. This Convention shall be subject to ratification or approval.

3. This Convention shall be open for accession by the parties referred to in paragraph 1 and, subject to the approval of the council, by any other State that

exercises fisheries jurisdiction in the North Atlantic Ocean or is a State of origin for salmon stocks subject to this Convention.

4. Instruments of ratification, approval or accession shall be deposited with the depositary.

5. This Convention shall enter into force on the first day of the month following the deposit of instruments of ratification, approval or accession by four parties, provided that among the four parties are two members of each commission and that at least one of the two members of each commission exercises fisheries jurisdiction in the commission area.

6. For each party ratifying, approving or acceding to this Convention after the deposit of the requisite instruments of ratification, approval or accession under paragraph 5, it shall enter into force on the date of entry into force of the Convention or on the date of deposit of the instrument of ratification, approval or accession, whichever is the later.

7. The depositary shall inform the signatories and acceding parties of the deposit of all instruments of ratification, approval and accession and shall notify the signatories and acceding parties of the date and the parties in respect of which Convention enters into force.

8. The depositary shall call the first meeting of the council and the commissions as soon as practicable after the entry into force of this Convention.

Article 18

This Convention shall apply, in so far as the European Economic Community is concerned, to the territories in which the Treaty establishing the European Economic Community is applied and under the conditions laid down in that Treaty.

Article 19

1. Any party may propose amendments to this Convention to be considered by the council. A proposed amendment shall be sent to the secretary not later than 90 days before the meeting at which it is proposed to be considered. The secretary shall immediately transmit the proposed amendment to the parties.

2. The adoption of an amendment by the council shall require the unanimous vote of the parties present and casting an affirmative or negative vote. The

text of an amendment so adopted shall be transmitted by the secretary to the depositary which shall immediately notify the parties thereof.

3. An amendment shall enter into force for all parties 30 days after the date specified in the notification by the depositary of receipt from all parties of instruments of ratification or approval.

4. A party which becomes bound by this Convention after an amendment has entered into force in accordance with paragraph 3 shall be considered as a party to the Convention as amended.

5. The depositary shall immediately notify all parties of the receipt of instruments of ratification or approval and the entry into force of amendments.

Article 20

1. Any party may denounce this Convention with effect from 31 December of any year by giving

notice to the depositary on or before the preceding 30 June. The depositary shall immediately inform the other parties of such denunciation.

2. Any other party may denounce this Convention with effect from the same 31 December by giving notice to the depositary within 30 days of the date on which the depositary informed the parties of a denunciation under paragraph 1.

Article 21

1. The original of this Convention shall be deposited with the Council of the European Communities, referred to in the Convention as the 'depositary', which shall transmit certified copies thereof to all signatories and acceding parties.

2. The depositary shall register this Convention in accordance with Article 102 of the Charter of the United Nations.

COUNCIL DECISION**of 13 December 1982****adopting a concerted action project for the European Economic Community in the field of shore-based marine navigation aid systems**

(82/887/EEC)

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 draft 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 a concerted action project for Community research in the field of marine navigation aid systems may contribute to the reduction of the risk of accidents in coastal areas and ports, and, consequently, to the protection of human life and the safety of ships and their cargo, and the prevention of pollution on the shore and in coastal waters;

Whereas a research programme in the field of marine navigation aid systems was proposed in 1979 by the Finnish and French delegations within the framework of European cooperation in the field of scientific and technical research (COST); whereas the Scientific and Technical Research Committee (Crest) acknowledged the Community interest of the said programme on 8 April 1981;

Whereas in its resolution of 14 January 1974 on an initial outline programme of the European Communities in the field of science and technology ⁽⁴⁾ the Council emphasized that an appropriate approach should be adopted towards the whole range of available ways and means, including concerted action projects, and that, whenever it proved desirable, non-member States, particularly European ones, should be associated in those projects;

Whereas the Member States intend to implement, in accordance with the rules and procedures applicable to their national programmes, the research projects described in Annex I and are prepared to coordinate them at Community level for a period of three years;

Whereas international organizations are carrying out projects in this field; whereas account should be taken of such projects so as to preclude duplication of effort; whereas certain equipment and procedures should, if appropriate, be the subject of agreements within the framework of the competent organizations;

Whereas the implementation of this research requires a financial outlay of the order of 10 million ECU on the part of the Community and the Member States;

Considering the opinion delivered by Crest on the Commission proposal,

HAS DECIDED AS FOLLOWS:

Article 1

The Community shall implement, over a period of three years from 1 January 1983, a concerted action research project in the field of shore-based marine navigation aid systems, hereinafter referred to as 'the project'.

The project shall consist of the coordination at Community level of the research defined in Annex I forming part of the research programmes of the Member States, taking into account the work being carried out in the field in question by international organizations and ensuring that the international character of marine navigation, and consequently of all the rules governing it, is borne in mind.

Article 2

The Commission shall be responsible for the co-ordination referred to in Article 1.

⁽¹⁾ OJ No C 256, 8. 10. 1981, p. 7.

⁽²⁾ OJ No C 238, 13. 9. 1982, p. 111.

⁽³⁾ OJ No C 348, 31. 12. 1981, p. 24.

⁽⁴⁾ OJ No C 7, 29. 1. 1974, p. 6.

Article 3

The funds estimated as necessary for the Community contribution to the coordination should be 2.1 million ECU including expenditure on a staff of one.

Article 4

To help implement the project, a Concerted Action Committee for shore-based marine navigation aid systems hereinafter referred to as 'the committee', shall be set up.

A project leader shall be appointed by the Commission in agreement with the committee.

The terms of reference and composition of the committee are set out in Annex II hereto.

The committee shall adopt its own rules of procedure. The committee secretariat shall be provided by the Commission.

Article 5

1. In accordance with a procedure to be laid down by the Commission after consulting the committee, States participating in the project and the Community shall exchange all useful information concerning the implementation of research relating to the project on a regular basis. Participating Member States shall supply the Commission with all the information needed for coordination purposes. They shall also endeavour to supply the Commission with information on research on the subject which is either planned or has been carried out by bodies for which they are not responsible. Such information shall be treated as confidential if the Member State supplying it so requests.

2. The Commission shall establish annual progress reports on the basis of the information supplied and shall forward them to the Member States and to the European Parliament.

3. At the end of the coordination period, the Commission, after consulting the committee, shall forward to the Member States and to the European Parliament a general report on the implementation and results of the project. It shall publish this report six months after it has been forwarded to the Member States unless one of the Member States objects. In the latter event the report shall be distributed, on request, only to those institutions and undertakings whose research or production activities justify access to the results of the research carried out under this project. The Commission may provide for the report to remain confidential and not to be disclosed to third parties.

Article 6

In accordance with Article 228 of the Treaty the Community may conclude an agreement with third States, and in particular with those participating in COST, with a view to ensuring coordination between the Community's project and the corresponding programmes in those States.

Done at Brussels, 13 December 1982.

For the Council

The President

U. ELLEMANN-JENSEN

ANNEX I

Project content

1. A study of requirements for precise navigation and ship manoeuvring in confined areas under various hydro-meteorological conditions.
2. A study to develop factors and criteria that can serve as a common determinant for marine traffic problem definition. As a second stage application of these factors and criteria to European waters.
3. An inventory of existing shore-based marine traffic systems in Western Europe, stating:
 - geographical coverage,
 - type of service provided,
 - rules governing operation of the service,
 - traffic intensity in the area,
 - types of traffic in the area.
4. A study of vessel identification methods, for use both in the control of traffic by the monitoring stations and in ship-to-ship communications.

Indicative breakdown of research

Research topics	Breakdown of research								
	B	D	DK	F	GR	I	IRL	NL	UK
1. Movement of ships in confined areas	x			x		x		x	x
2. (a) Criteria for standard identification of problem areas for marine traffic	x			x		x		x	x
(b) Identification of problem areas for marine navigation	x			x	x	x		x	x
3. Inventory of shore-based marine traffic systems in Western Europe				x	x	x		x	x
4. Identification of ships						x	x	x	x
5. Specifications and standards for pinpointing and precise tracking of ships under way				x		x	x	x	x
6. Shore-to-ship communication methods						x		x	x
7. Harmonization of the procedures of marine traffic services				x		x		x	x

5. A study of methods to enable the monitoring stations to pinpoint and track a vessel with accuracy.
6. Methods of shore-to-ship and ship-to-ship communication and data exchange systems between monitoring stations and ships.
7. A study of the harmonization of the procedures of traffic, information and guidance services for shipping in Western Europe.

Among the international organizations with most competence in this area which have been or are working on the above research topics are the following:

- International Maritime Organization (IMO),
- International Association of Lighthouse Authorities (IALA),
- International Association of Ports and Harbours (IAPH).

This list is not exhaustive.

*ANNEX II***Terms of reference and composition of the Concerted Action Committee for shore-based marine navigation aid systems**

1. The committee shall:
 - 1.1. contribute to the optimum implementation of the project by giving its opinion on all aspects of its progress;
 - 1.2. evaluate the results of the project and draw conclusions as to their application;
 - 1.3. be responsible for the exchange of information referred to in Article 5 (1);
 - 1.4. keep track of national research work carried out in the fields covered by the project, in particular by keeping itself informed about scientific and technical developments which might have an influence on its implementation;
 - 1.5. take care to avoid duplicating studies and research work being carried out by the competent international organizations, taking account of the international framework in which certain provisions should, where necessary, be adopted;
 - 1.6. provide guidelines for the project leader;
 - 1.7. assist the Commission in the selection of contractors and the allocation of the corresponding appropriations.
 2. The committee's reports and opinions shall be forwarded to the Commission and the Member States taking part in the project. The Commission shall forward these opinions to Crest.
 3. The committee shall be composed of the persons responsible for coordinating the national research activities included in the project, a delegate from the Commission and the project leader. Each member may be accompanied by experts. Wherever it deems it is useful, the committee may invite observers from the relevant international organizations (see Annex I).
-

COUNCIL DECISION

of 17 December 1982

on the conclusion of the Agreement amending the Community-COST Concertation Agreement on a concerted action project in the field of physico-chemical behaviour of atmospheric pollutants (COST project 61a *bis*)

(82/888/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 81/213/EEC of 3 March 1981 adopting a sectoral research and development programme in the field of environment (environmental protection and climatology) — indirect and concerted actions — (1981 to 1985) ⁽¹⁾, and in particular Article 8 (1) thereof,

Having regard to Council Decision 80/177/EEC of 18 December 1979 concerning the conclusion of the Agreement on a concerted action project in the field of physico-chemical behaviour of atmospheric pollutants (COST project 61a *bis*) ⁽²⁾,

Having regard to the draft Decision submitted by the Commission,

Whereas, pursuant to Article 8 (2) of Decision 81/213/EEC, the Commission has negotiated an Agreement with the third States participating in the abovementioned Concertation Agreement with a view to amending that Agreement,

Whereas this Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Economic Community, Austria, Sweden, Switzerland and Yugoslavia amending the Community-COST Concertation Agreement on a concerted action project in the field of physico-chemical behaviour of atmospheric pollutants (COST project 61a *bis*) is hereby approved on behalf of the Community.

The text of the Agreement is attached hereto.

Article 2

The president of the Council is hereby authorized to designate the persons empowered to sign the Agreement in order to bind the Community.

Done at Brussels, 17 December 1982.

For the Council

The President

H. CHRISTOPHERSEN

⁽¹⁾ OJ No L 101, 11. 4. 1981, p. 1.

⁽²⁾ OJ No L 39, 15. 2. 1980, p. 18.

AGREEMENT

amending the Community-COST Concertation Agreement on a concerted action project in the field of physico-chemical behaviour of atmospheric pollutants (COST project 61a bis)

THE EUROPEAN ECONOMIC COMMUNITY,

hereinafter referred to as 'the Community',

AUSTRIA, SWEDEN, SWITZERLAND AND
YUGOSLAVIA,

hereinafter referred to as 'the participating non-member States',

Whereas the Community-COST Concertation Agreement on a concerted action project in the field of physico-chemical behaviour of atmospheric pollutants (COST project 61a bis) hereinafter referred to as 'the Community-COST Concertation Agreement' concluded between the Community and the participating non-member States (hereinafter referred to as 'the Contracting Parties'), will expire on 3 November 1982;

Whereas, by its Decision of 3 March 1981, the Council of the European Communities adopted a sectoral research and development programme in the field of environment (environmental protection and climatology) — indirect and concerted actions — (1981 to 1985);

Whereas the abovementioned Decision lays down that the ongoing Community concerted action project on physico-chemical behaviour of atmospheric pollutants shall be extended to 31 December 1983;

Whereas the Contracting Parties have a mutual interest in the continuation of the research covered by the Community-COST Concertation Agreement;

Whereas the extension of the Community-COST Concertation Agreement will require a supplementary contribution from the Contracting Parties,

HAVE AGREED AS FOLLOWS:

Article 1

The Community-COST Concertation Agreement shall be extended from 3 November 1982 to 31 December 1983.

Article 2

The provisions of the Community-COST Concertation Agreement shall be amended as follows:

1. paragraph III of Annex C shall be replaced by the following:

'III. The funds paid by participating non-member States shall be credited to the concerted action project as budget receipts allocated to a heading in the statement of the revenue of the budget of the European Communities (Commission section).';
2. the Annex to Annex C shall be replaced by the Annex to this Agreement.

Article 3

The maximum supplementary contributions by the Contracting Parties to the coordination costs for the period of extension shall be:

- 140 000 ECU from the Community,
- 5 500 ECU from each participating non-member State.

The ECU shall be that defined by the Financial Regulation in force applicable to the general budget of the European Communities and by the financial arrangements adopted pursuant thereto.

Article 4

1. Each of the Contracting Parties shall, after signing this Agreement, notify the Secretary-General of the Council of the European Communities as soon as possible of the completion of the procedures necessary under its internal provisions for the implementation of this Agreement.

2. For the Contracting Parties which have forwarded the notification provided for in paragraph 1, this Agreement shall enter into force on 3 November 1982 provided that the Community and at least one of the participating non-member States has forwarded these notifications.

For those Contracting Parties which forward the notification after the entry into force of this Agreement, it shall come into force on the first day of the second month following the month in which the notification was forwarded.

Contracting Parties which have not forwarded this notification at the time of entry into force of this Agreement shall be able to take part in the work of the committee without voting rights for a period of six months following the entry into force of this Agreement.

3. The Secretary-General of the Council of the European Communities shall notify each of the Contracting Parties of the deposit of the notifications provided for in paragraph 1 and of the date of the entry into force of this Agreement.

Article 5

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Economic Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territories of the participating non-member States.

Article 6

This Agreement, drawn up in a single original in the Danish, Dutch, English, French, German, Greek and Italian languages, each text being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities which shall forward a certified copy to each of the Contracting Parties.

ANNEX

MULTI-ANNUAL TIMETABLE FOR THE CONCERTED ACTION PROJECT

Physico-chemical behaviour of atmospheric pollutants (COST project 61a bis)

Budget item 7369: R&D in the sector of environment

(ECU)

	1979		1980		1981		1982		1983		Total	
	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA
I. Initial estimate of overall requirements (figures appearing in the timetable of commitments and in the correspondence table shown in Annex II to the Commission budget):												
— staff												
— administrative operating expenditure	100 000	100 000	125 000	125 000	130 000	130 000	140 000	140 000	130 000	130 000	625 000	625 000
— contracts												
Total (to be covered by appropriations entered in 7369)	100 000	100 000	125 000	125 000	130 000	130 000	140 000	140 000	130 000	130 000	625 000	625 000
II. Revised estimate of expenditure taking into account additional requirements arising from the accession of participating non-member States:												
— staff												
— administrative operating expenditure	100 000	100 000	125 000	125 000	130 000	130 000	140 000	140 000	130 000	130 000	625 000	625 000
— contracts	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	110 000	110 000
New total	122 000	122 000	147 000	147 000	152 000	152 000	162 000	162 000	152 000	152 000	735 000	735 000
III. Difference between I and II to be covered by contributions from participating non-member States	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	4 x 5 500	110 000	110 000

CA = commitment appropriation.

PA = payment appropriation.

COUNCIL DECISION**of 17 December 1982****on the conclusion of the Agreement amending the Community-COST Concertation Agreement on a concerted project in the field of analysis of organic micropollutants in water (COST project 64b bis)**

(82/889/EEC)

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the
European Economic Community,Having regard to Council Decision 81/213/EEC of
3 March 1981 adopting a sectoral research and
development programme in the field of environ-
ment (environmental protection and climatology) —
indirect and concerted actions — (1981 to 1985) ⁽¹⁾,
and in particular Article 8 (1) thereof,Having regard to Council Decision 80/178/EEC of
18 December 1979 concerning the conclusion of the
Agreement on a concerted action project in the field
of analysis of organic micropollutants in water
(COST 64b bis) ⁽²⁾,Having regard to the draft Decision submitted by
the Commission,Whereas, pursuant to Article 8 (2) of Decision 81/
213/EEC, the Commission has negotiated an Agree-
ment with the third States participating in the
abovementioned Concertation Agreement with a
view to amending this Agreement;

Whereas this Agreement should be approved,

Article 1

The Agreement between the European Economic Community, Norway, Portugal, Spain, Sweden, Switzerland and Yugoslavia amending the Community-COST Concertation Agreement on a concerted action project in the field of analysis of organic micropollutants in water (COST project 64b bis) is hereby approved on behalf of the Community.

The text of the Agreement is attached hereto.

Article 2

The President of the Council is hereby authorized to designate the persons empowered to sign the Agreement in order to bind the Community.

Done at Brussels, 17 December 1982.

*For the Council**The President*

H. CHRISTOPHERSEN

⁽¹⁾ OJ No L 101, 11. 4. 1981, p. 1.⁽²⁾ OJ No L 39, 15. 2. 1980, p. 24.

AGREEMENT

amending the Community-COST Concertation Agreement on a concerted action project in the field of analysis of organic micropollutants in water (COST project 64b bis)

THE EUROPEAN ECONOMIC COMMUNITY,

hereinafter referred to as 'the Community',

NORWAY, PORTUGAL, SPAIN, SWEDEN,
SWITZERLAND AND YUGOSLAVIA,

hereinafter referred to as 'the participating non-member States',

Whereas the Community-COST Concertation Agreement on a concerted action project in the field of analysis of organic micropollutants in water (COST project 64b bis), hereinafter referred to as 'the Community-COST Concertation Agreement', concluded between the Community and the participating non-member States (hereinafter referred to as 'the Contracting Parties'), will expire on 3 November 1982;

Whereas, by its Decision of 3 March 1981, the Council of the European Communities adopted a sectoral research and development programme in the field of environment (environmental protection and climatology) — indirect and concerted actions — (1981 to 1985);

Whereas the abovementioned Decision lays down that the ongoing Community concerted action project on analysis of organic micropollutants in water shall be extended to 31 December 1983;

Whereas the Contracting Parties have a mutual interest in the continuation of the research covered by the Community-COST Concertation Agreement;

Whereas the extension of the Community-COST Concertation Agreement will require a supplementary contribution from the Contracting Parties,

HAVE AGREED AS FOLLOWS:

Article 1

The Community-COST Concertation Agreement shall be extended from 3 November 1982 to 31 December 1983.

Article 2

The provisions of the Community-COST Concertation Agreement shall be amended as follows:

1. paragraph III of Annex C shall be replaced by the following:

'III. The funds paid by participating non-member States shall be credited to the concerted action project as budget receipts allocated to a heading in the statement of the revenue of the budget of the European Communities (Commission section).';

2. the Annex to Annex C shall be replaced by the Annex to this Agreement.

Article 3

The maximum supplementary contributions by the Contracting Parties to the coordination costs for the period of extension shall be:

- 167 000 ECU from the Community,
- 8 000 ECU from each participating non-member State.

The ECU shall be that defined by the Financial Regulation in force applicable to the general budget of the European Communities and by the financial arrangements adopted pursuant thereto.

Article 4

1. Each of the Contracting Parties shall, after signing this Agreement, notify the Secretary-General of the Council of the European Communities as soon as possible of the completion of the procedures necessary under its internal provisions for the implementation of this Agreement.

2. For the Contracting Parties which have forwarded the notification provided for in paragraph 1, this Agreement shall enter into force on 3 November 1982 provided that the Community and at least one of the participating non-member States has forwarded these notifications.

For those Contracting Parties which forward the notification after the entry into force of this Agreement, it shall come into force on the first day of the second month following the month in which the notification was forwarded.

Contracting Parties which have not forwarded this notification at the time of entry into force of this Agreement shall be able to take part in the work of the committee without voting rights for a period of six months following the entry into force of this Agreement.

3. The Secretary-General of the Council of the European Communities shall notify each of the Contracting Parties of the deposit of the notifications provided for in paragraph 1 and of the date of the entry into force of this Agreement.

Article 5

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the Euro-

pean Economic Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territories of the participating non-member States.

Article 6

This Agreement, drawn up in a single original in the Danish, Dutch, English, French, German, Greek and Italian languages, each text being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities which shall forward a certified copy to each of the Contracting Parties.

ANNEX

MULTIANNUAL TIMETABLE FOR THE CONCERTED ACTION PROJECT
Analysis of organic micropollutants in water (COST project 64b bis)
 Budget item 7369: R&D in the sector of environment

(ECU)

	1979			1980			1981			1982			1983			Total	
	CA	PA		CA	PA		CA	PA		CA	PA		CA	PA		CA	PA
I. Initial estimate of overall requirements (figures appearing in the timetable of commitments and in the correspondence table shown in Annex II to the Commission budget):																	
— staff																	
— administrative operating expenditure	126 000	126 000		121 000	121 000		126 000	126 000		107 000	107 000		167 000	167 000		647 000	647 000
— contracts																	
Total (to be covered by appropriations entered in 7369)	126 000	126 000		121 000	121 000		126 000	126 000		107 000	107 000		167 000	167 000		647 000	647 000
II. Revised estimate of expenditure taking into account additional requirements arising from the accession of participating non-member States:																	
— staff																	
— administrative operating expenditure	126 000	126 000		121 000	121 000		126 000	126 000		107 000	107 000		167 000	167 000		647 000	647 000
— contracts	6 x 8 000	6 x 8 000		6 x 8 000	6 x 8 000		6 x 8 000	6 x 8 000		6 x 8 000	6 x 8 000		6 x 8 000	6 x 8 000		240 000	240 000
New total	174 000	174 000		169 000	169 000		174 000	174 000		155 000	155 000		215 000	215 000		887 000	887 000
III. Difference between I and II to be covered by contributions from participating non-member States	6 x 8 000	6 x 8 000		6 x 8 000	6 x 8 000		6 x 8 000	6 x 8 000		6 x 8 000	6 x 8 000		6 x 8 000	6 x 8 000		240 000	240 000

CA = commitment appropriation.
 PA = payment appropriation.

COUNCIL DIRECTIVE**of 17 December 1982****amending the Directives on the approximation of the laws of the Member States relating to wheeled agricultural or forestry tractors****(82/890/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 Article 1 of Council Directive 74/150/EEC of 4 March 1974 on the approximation of the laws of the Member States relating to the type-approval of wheeled agricultural or forestry tractors ⁽³⁾, as amended by Directive 79/694/EEC ⁽⁴⁾, limits the scope of the said Directive to tractors equipped with pneumatic tyres and having two axles and a maximum design speed of between 6 and 25 km/h;

Whereas the same Directive provides that, where necessary, tractors with a maximum design speed in excess of 25 km/h shall be subject to special requirements; whereas such tractors form part of the tractor fleet manufactured and used in the Community and offer advantages as regards the efficiency of agricultural holdings;

Whereas an increase of 20 % of the maximum design speed, which has hitherto been prescribed, is reasonable considering road safety and safety of working conditions on the land;

Whereas Member States may, nevertheless, restrict the speed at which a tractor may be driven on the road by imposing speed limits;

Whereas, moreover, tractors having more than two axles can be treated in the same way as those having two axles only, and can therefore be made subject to the same provisions;

Whereas it is therefore not necessary to lay down the specific rules envisaged by the framework Directive 74/150/EEC; whereas it is sufficient that the field of application of that Directive be extended, together with that of the specific Directives containing an express definition of their field of application in relation to tractors with more than two axles and to tractors having a maximum design speed of between 25 and 30 km/h,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Article 1 (2) of Directives 74/150/EEC, 74/151/EEC ⁽⁵⁾, 74/152/EEC ⁽⁶⁾, 74/346/EEC ⁽⁷⁾, 74/347/EEC ⁽⁸⁾, 75/321/EEC ⁽⁹⁾, 75/322/EEC ⁽¹⁰⁾, 76/432/EEC ⁽¹¹⁾, 77/311/EEC ⁽¹²⁾, 77/537/EEC ⁽¹³⁾, 78/933/EEC ⁽¹⁴⁾, 79/532/EEC ⁽¹⁵⁾, 79/533/EEC ⁽¹⁶⁾, and Article 9 (2) of Directive 78/764/EEC ⁽¹⁷⁾ shall be replaced by the following:

'2. This Directive shall apply only to tractors defined in paragraph 1 which are equipped with pneumatic tyres and have at least two axles and a maximum design speed of between 6 and 30 km/h.'

2. Article 1 (2) of Directive 80/720/EEC ⁽¹⁸⁾ shall be replaced by the following:

⁽⁵⁾ OJ No L 84, 28. 3. 1974, p. 25.

⁽⁶⁾ OJ No L 84, 28. 3. 1974, p. 33.

⁽⁷⁾ OJ No L 191, 15. 7. 1974, p. 1.

⁽⁸⁾ OJ No L 191, 15. 7. 1974, p. 5.

⁽⁹⁾ OJ No L 147, 9. 6. 1975, p. 24.

⁽¹⁰⁾ OJ No L 147, 9. 6. 1975, p. 28.

⁽¹¹⁾ OJ No L 122, 8. 5. 1976, p. 1.

⁽¹²⁾ OJ No L 105, 28. 4. 1977, p. 1.

⁽¹³⁾ OJ No L 220, 29. 8. 1977, p. 38.

⁽¹⁴⁾ OJ No L 325, 20. 11. 1978, p. 16.

⁽¹⁵⁾ OJ No L 145, 13. 6. 1979, p. 16.

⁽¹⁶⁾ OJ No L 145, 13. 6. 1979, p. 20.

⁽¹⁷⁾ OJ No L 255, 18. 9. 1978, p. 11.

⁽¹⁸⁾ OJ No L 194, 28. 7. 1980, p. 1.

⁽¹⁾ OJ No C 182, 19. 7. 1982, p. 112.

⁽²⁾ OJ No C 77, 29. 3. 1982, p. 1.

⁽³⁾ OJ No L 84, 28. 3. 1974, p. 10.

⁽⁴⁾ OJ No L 205, 13. 8. 1979, p. 17.

'2. This Directive shall apply only to tractors defined in paragraph 1 which are equipped with pneumatic tyres and which have at least two axles, a maximum design speed of between 6 and 30 km/h and a minimum fixed or variable drive-axle track width of 1 150 mm or more.'

3. Article 1 (2) of Directive 76/763/EEC ⁽¹⁾ shall be replaced by the following:

'2. This Directive shall apply only to tractors defined in paragraph 1, which are equipped with pneumatic tyres and which have at least two axles, a maximum design speed of between 6 and 30 km/h and a track width of 1 250 mm or more.'

4. Point 1.5 of the Annex to Directive 74/152/EEC shall be replaced by the following:

'1.5. In order to take account of various unavoidable errors due, in particular, to the measuring technique and to the increase in running speed of the engine with a partial load, a result 10 % higher than the 30 km/h value shall be acceptable for the type-approval test.'

Article 2

1. Member States shall bring into force the provisions necessary to comply with this Directive within 18 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 3

This Directive is addressed to the Member States.

Done at Brussels, 17 December 1982.

For the Council

The President

H. CHRISTOPHERSEN

⁽¹⁾ OJ No L 262, 27. 9. 1976, p. 135.

SIXTH COUNCIL DIRECTIVE**of 17 December 1982****based on Article 54 (3) (g) of the Treaty, concerning the division of public limited liability companies****(82/891/EEC)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 54 (3) (g) 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 coordination provided for in Article 54 (3) (g) and in the general programme for the abolition of restrictions on freedom of establishment ⁽⁴⁾ was begun with Directive 68/151/EEC ⁽⁵⁾;

Whereas that coordination was continued as regards the formation of public limited liability companies and the maintenance and alteration of their capital with Directive 77/91/EEC ⁽⁶⁾, as regards the annual accounts of certain types of companies with Directive 78/660/EEC ⁽⁷⁾, and as regards mergers of public limited liability companies with Directive 78/855/EEC ⁽⁸⁾;

Whereas Directive 78/855/EEC dealt only with mergers of public limited liability companies and certain operations treated as mergers; whereas, however, the Commission proposal also covered division operations; whereas the opinions of the European Parliament and of the Economic and Social Committee were in favour of the regulation of such operation;

Whereas, because of the similarities which exist between merger and division operations, the risk of

the guarantees given with regard to mergers by Directive 78/855/EEC being circumvented can be avoided only if provision is made for equivalent protection in the event of division;

Whereas the protection of the interests of members and third parties requires that the laws of the Member States relating to divisions of public limited liability companies be coordinated where the Member States permit such operations;

Whereas, in the context of such coordination, it is particularly important that the shareholders of the companies involved in a division be kept adequately informed in as objective a manner as possible and that their rights be suitably protected;

Whereas the protection of employees' rights in the event of transfers of undertakings, businesses or parts of businesses is at present regulated by Directive 77/187/EEC ⁽⁹⁾;

Whereas creditors, including debenture holders, and persons having other claims on the companies involved in a division, must be protected so that the division does not adversely affect their interests;

Whereas the disclosure requirements of Directive 68/151/EEC must be extended to include divisions so that third parties are kept adequately informed;

Whereas the safeguards afforded to members and third parties in connection with divisions must be extended to cover certain legal practices which in important respects are similar to division, so that the obligation to provide such protection cannot be evaded;

Whereas to ensure certainty in the law as regards relations between the companies involved in the division, between them and third parties, and between the members, the cases in which nullity can arise must be limited by providing that defects be

⁽¹⁾ OJ No C 89, 14. 7. 1970, p. 20.

⁽²⁾ OJ No C 129, 11. 12. 1972, p. 50 and OJ No C 95, 28. 4. 1975, p. 12.

⁽³⁾ OJ No C 88, 6. 9. 1971, p. 18.

⁽⁴⁾ OJ No 2, 15. 1. 1962, p. 36/62.

⁽⁵⁾ OJ No L 65, 14. 3. 1968, p. 8.

⁽⁶⁾ OJ No L 26, 31. 1. 1977, p. 1.

⁽⁷⁾ OJ No L 222, 14. 8. 1978, p. 11.

⁽⁸⁾ OJ No L 295, 20. 10. 1978, p. 36.

⁽⁹⁾ OJ No L 61, 5. 3. 1977, p. 26.

remedied wherever that is possible and by restricting the period within which nullification proceedings may be commenced,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Where Member States permit the companies referred to in Article 1 (1) of Directive 78/855/EEC coming under their laws to carry out division operations by acquisition as defined in Article 2 of this Directive, they shall subject those operations to the provisions of Chapter I of this Directive.

2. Where Member States permit the companies referred to in paragraph 1 to carry out division operations by the formation of new companies as defined in Article 21, they shall subject those operations to the provisions of Chapter II of this Directive.

3. Where Member States permit the companies referred to in paragraph 1 to carry out operations, whereby a division by acquisition as defined in Article 2 (1) is combined with a division by the formation of one or more new companies as defined in Article 21 (1), they shall subject operation to the provisions of Chapter I and Article 22.

4. Article 1 (2) and (3) of Directive 78/855/EEC shall apply.

CHAPTER I

Division by acquisition

Article 2

1. For the purposes of this Directive, 'division by acquisition' shall mean the operation whereby, after being wound up without going into liquidation, a company transfers to more than one company all its assets and liabilities in exchange for the allocation to the shareholders of the company being divided of shares in the companies receiving contributions as a result of the division (hereinafter referred to as 'recipient companies') and possibly a cash payment not exceeding 10 % of the nominal value of the shares allocated or, where they have no nominal value, of their accounting par value.

2. Article 3 (2) of Directive 78/855/EEC shall apply.

3. In so far as this Directive refers to Directive 78/855/EEC, the expression 'merging companies' shall mean 'the companies involved in a division', the expression 'company being acquired' shall mean 'the company being divided', the expression 'acquiring company' shall mean 'each of the recipient companies' and the expression 'draft terms of merger' shall mean 'draft terms of division'.

Article 3

1. The administrative or management bodies of the companies involved in a division shall draw up draft terms of division in writing.

2. Draft terms of division shall specify at least:

- (a) the type, name and registered office of each of the companies involved in the division;
 - (b) the share exchange ratio and the amount of any cash payment;
 - (c) the terms relating to the allotment of shares in the recipient companies;
 - (d) the date from which the holding of such shares entitles the holders to participate in profits and any special conditions affecting that entitlement;
 - (e) the date from which the transactions of the company being divided shall be treated for accounting purposes as being those of one or other of the recipient companies;
 - (f) the rights conferred by the recipient companies on the holders of shares to which special rights are attached and the holders of securities other than shares, or the measures proposed concerning them;
 - (g) any special advantage granted to the experts referred to in Article 8 (1) and members of the administrative, management, supervisory or controlling bodies of the companies involved in the division;
 - (h) the precise description and allocation of the assets and liabilities to be transferred to each of the recipient companies;
 - (i) the allocation to the shareholders of the company being divided of shares in the recipient companies and the criterion upon which such allocation is based.
3. (a) Where an asset is not allocated by the draft terms of division and where the interpretation of these terms does not make a decision on its allocation possible, the asset or

the consideration therefor shall be allocated to all the recipient companies in proportion to the share of the net assets allocated to each of those companies under the draft terms of division.

- (b) Where a liability is not allocated by the draft terms of division and where the interpretation of these terms does not make a decision on its allocation possible, each of the recipient companies shall be jointly and severally liable for it. Member States may provide that such joint and several liability be limited to the net assets allocated to each company.

Article 4

Draft terms of division must be published in the manner prescribed by the laws of each Member State in accordance with Article 3 of Directive 68/151/EEC ⁽¹⁾ for each of the companies involved in a division, at least one month before the date of the general meeting which is to decide thereon.

Article 5

1. A division shall require at least the approval of a general meeting of each company involved in the division. Article 7 of Directive 78/855/EEC shall apply with regard to the majority required for such decisions, their scope and the need for separate votes.

2. Where shares in the recipient companies are allocated to the shareholders of the company being divided otherwise than in proportion to their rights in the capital of that company, Member States may provide that the minority shareholders of that company may exercise the right to have their shares purchased. In such case, they shall be entitled to receive consideration corresponding to the value of their shares. In the event of a dispute concerning such consideration, it must be possible for the consideration to be determined by a court.

Article 6

The laws of a Member State need not require approval of a division by a general meeting of a recipient company if the following conditions are fulfilled:

- (a) the publication provided for in Article 4 must be effected, for each recipient company, at least one month before the date fixed for the general meeting of the company being divided which is to decide on the draft terms of division;
- (b) at least one month before the date specified in point (a), all shareholders of each recipient company must be entitled to inspect the documents specified in Article 9 (1) at the registered office of that company;
- (c) one or more shareholders of any recipient company holding a minimum percentage of the subscribed capital must be entitled to require that a general meeting of such recipient company be called to decide whether to approve the division. This minimum percentage may not be fixed at more than 5 %. Member States may, however, provide for the exclusion of non-voting shares from this calculation.

Article 7

1. This administration or management bodies of each of the companies involved in the division shall draw up a detailed written report explaining the draft terms of division and setting out the legal and economic grounds for them, in particular the share exchange ratio and the criterion determining the allocation of shares.

2. The report shall also describe any special valuation difficulties which have arisen.

It shall disclose the preparation of the report on the consideration other than in cash referred to in Article 27 (2) of Directive 77/91/EEC ⁽²⁾ for recipient companies and the register where that report must be lodged.

3. The administrative or management bodies of a company being divided must inform the general meeting of that company and the administrative or management bodies of the recipient companies so that they can inform their respective general meetings of any material change in the assets and liabilities between the date of preparation of the draft terms of division and the date of the general meeting of the company being divided which is to decide on the draft terms of division.

⁽¹⁾ OJ No L 65, 14. 3. 1968, p. 9.

⁽²⁾ OJ No L 26, 31. 1. 1977, p. 1.

Article 8

1. One or more experts acting on behalf of each of the companies involved in the division but independent of them, appointed or approved by a judicial or administrative authority, shall examine the draft terms of division and draw up a written report to the shareholders. However, the laws of a Member State may provide for the appointment of one or more independent experts for all of the companies involved in a division if such appointment is made by a judicial or administrative authority at the joint request of those companies. Such experts may, depending on the laws of each Member State, be natural or legal persons or companies or firms.

2. Article 10 (2) and (3) of Directive 78/855/EEC shall apply.

3. Member States may provide that the report on the consideration other than in cash referred to in Article 27 (2) of Directive 77/91/EEC and the report on the draft terms of division drawn up in accordance with paragraph 1 shall be drawn up by the same expert or experts.

Article 9

1. All shareholders shall be entitled to inspect at least the following documents at the registered office at least one month before the date of the general meeting which is to decide on the draft terms of division:

- (a) the draft terms of division;
 - (b) the annual accounts and annual reports of the companies involved in the division for the preceding three financial years;
 - (c) an accounting statement drawn up as at a date which must not be earlier than the first day of the third month preceding the date of the draft terms of division, if the latest annual accounts relate to a financial year which ended more than six months before that date;
 - (d) the reports of the administrative or management bodies of the companies involved in the division provided for in Article 7 (1);
 - (e) the reports provided for in Article 8.
2. The accounting statement provided for in paragraph 1 (c) shall be drawn up using the same methods and the same layout as the last annual balance sheet.

However, the laws of a Member State may provide that:

- (a) it shall not be necessary to take a fresh physical inventory;
- (b) the valuations shown in the last balance sheet shall be altered only to reflect entries in the books of account; the following shall nevertheless be taken into account:
 - interim depreciation and provisions,
 - material changes in actual value not shown in the books.

3. Every shareholder shall be entitled to obtain, on request and free of charge, full or, if so desired, partial copies of the documents referred to in paragraph 1.

Article 10

Member States may permit the non-application of Articles 7 and 8 (1) and (2), and of Article 9 (1) (c), (d) and (e) if all the shareholders and the holders of other securities giving the right to vote of the companies involved in a division have so agreed.

Article 11

Protection of the rights of the employees of each of the companies involved in a division shall be regulated in accordance with Directive 77/187/EEC ⁽¹⁾.

Article 12

1. The laws of Member States must provide for an adequate system of protection for the interests of the creditors of the companies involved in a division whose claims antedate publication of the draft terms of division and have not yet fallen due at the time of such publication.

2. To that end, the laws of Member States shall at least provide that such creditors shall be entitled to obtain adequate safeguards where the financial situation of the company being divided and that of the company to which the obligation will be transferred in accordance with the draft terms of division make such protection necessary and where those creditors do not already have such safeguards.

⁽¹⁾ OJ No L 61, 5. 3. 1977, p. 26.

3. In so far as a creditor of the company to which the obligation has been transferred in accordance with the draft terms of division has not obtained satisfaction, the recipient companies shall be jointly and severally liable for that obligation. Member States may limit that liability to the net assets allocated to each of those companies other than the one to which the obligation has been transferred. However, they need not apply this paragraph where the division operation is subject to the supervision of a judicial authority in accordance with Article 23 and a majority in number representing three-fourths in value of the creditors or any class of creditors of the company being divided have agreed to forego such joint and several liability at a meeting held pursuant to Article 23 (1) (c).

4. Article 13 (3) of Directive 78/855/EEC shall apply.

5. Without prejudice to the rules governing the collective exercise of their rights, paragraphs 1 to 4 shall apply to the debenture holders of the companies involved in the division except where the division has been approved by a meeting of the debenture holders, if such a meeting is provided for under national laws, or by the debenture holders individually.

6. Member States may provide that the recipient companies shall be jointly and severally liable for the obligations of the company being divided. In such case they need not apply the foregoing paragraphs.

7. Where a Member State combines the system of creditor protection set out in paragraph 1 to 5 with the joint and several liability of the recipient companies as referred to in paragraph 6, it may limit such joint and several liability to the net assets allocated to each of those companies.

Article 13

Holders of securities, other than shares, to which special rights are attached, must be given rights in the recipient companies against which such securities may be invoked in accordance with the draft terms of division, at least equivalent to the rights they possessed in the company being divided, unless the alteration of those rights has been approved by a meeting of the holders of such securities, if such a meeting is provided for under national laws, or by the holders of those securities individually, or unless the holders are entitled to have their securities repurchased.

Article 14

Where the laws of a Member State do not provide for judicial or administrative preventive supervision of the legality of divisions or where such supervision does not extend to all the legal acts required for a division, Article 16 of Directive 78/855/EEC shall apply.

Article 15

The laws of Member States shall determine the date on which a division takes effect.

Article 16

1. A division must be published in the manner prescribed by the laws of each Member State in accordance with Article 3 of Directive 68/151/EEC in respect of each of the companies involved in a division.

2. Any recipient company may itself carry out the publication formalities relating to the company being divided.

Article 17

1. A division shall have the following consequences *ipso jure* and simultaneously:

(a) the transfer, both as between the company being divided and the recipient companies and as regards third parties, to each of the recipient companies of all the assets and liabilities of the company being divided; such transfer shall take effect with the assets and liabilities being divided in accordance with the allocation laid down in the draft terms of division or in Article 3 (3);

(b) the shareholders of the company being divided become shareholders of one or more of the recipient companies in accordance with the allocation laid down in the draft terms of division;

(c) the company being divided ceases to exist.

2. No shares in a recipient company shall be exchanged for shares held in the company being divided either:

(a) by that recipient company itself or by a person acting in his own name but on its behalf; or

- (b) by the company being divided itself or by a person acting in his own name but on its behalf.

3. The foregoing shall not affect the laws of Member States which require the completion of special formalities for the transfer of certain assets, rights and obligations by a company being divided to be effective as against third parties. The recipient company or companies to which such assets, rights or obligations are transferred in accordance with the draft terms of division or with Article 3 (3) may carry out these formalities themselves; however, the laws of Member States may permit a company being divided to continue to carry out these formalities for a limited period which may not, save in exceptional circumstances, be fixed at more than six months from the date on which the division takes effect.

Article 18

The laws of Member States shall at least lay down rules governing the civil liability of members of the administrative or management bodies of a company being divided towards the shareholders of that company in respect of misconduct on the part of members of those bodies in preparing and implementing the division and the civil liability of the experts responsible for drawing up for that company the report provided for in Article 8 in respect of misconduct on the part of those experts in the performance of their duties.

Article 19

1. The laws of Member States may lay down nullity rules for divisions in accordance with the following conditions only:

- (a) nullity must be ordered in a court judgment;
- (b) divisions which have taken effect pursuant to Article 15 may be declared void only if there has been no judicial or administrative preventive supervision of their legality, or if they have not been drawn up and certified in due legal form, or if it is shown that the decision of the general meeting is void or voidable under national law;
- (c) nullification proceedings may not be initiated more than six months after the date on which the division becomes effective as against the person alleging nullity or if the situation has been rectified;

- (d) where it is possible to remedy a defect liable to render a division void, the competent court shall grant the companies involved a period of time within which to rectify the situation;

- (e) a judgment declaring a division void shall be published in the manner prescribed by the laws of each Member State in accordance with Article 3 of Directive 68/151/EEC;

- (f) where the laws of a Member State permit a third party to challenge such a judgment, he may do so only within six months of publication of the judgment in the manner prescribed by Directive 68/151/EEC;

- (g) a judgment declaring a division void shall not of itself affect the validity of obligations owed by or in relation to the recipient companies which arose before the judgment was published and after the date referred to in Article 15;

- (h) each of the recipient companies shall be liable for its obligations arising after the date on which the division took effect and before the date on which the decision pronouncing the nullity of the division was published. The company being divided shall also be liable for such obligations; Member States may provide that this liability be limited to the share of net assets transferred to the recipient company on whose account such obligations arose.

2. By way of derogation from paragraph 1 (a), the laws of a Member State may also provide for the nullity of a division to be ordered by an administrative authority if an appeal against such a decision lies to a court. Subparagraphs (b), (d), (e), (f), (g), and (h) shall apply by analogy to the administrative authority. Such nullification proceedings may not be initiated more than six months after the date referred to in Article 15.

3. The foregoing shall not affect the laws of the Member States on the nullity of a division pronounced following any supervision of legality.

Article 20

Without prejudice to Article 6, Member States need not require the division to be approved by the general meeting of the company being divided where

the recipient companies together hold all the shares of the company being divided and all other securities conferring the right to vote at general meetings of the company being divided, and the following conditions, at least, are fulfilled:

- (a) each of the companies involved in the operation must carry out the publication provided for in Article 4 at least one month before the operation takes effect;
- (b) at least one month before the operation takes effect, all shareholders of companies involved in the operation must be entitled to inspect the documents specified in Article 9 (1), at their company's registered office. Article 9 (2) and (3) shall also apply;
- (c) one or more shareholders of the company being divided holding a minimum percentage of the subscribed capital must be entitled to require that a general meeting of the company being divided be called to decide whether to approve the division. This minimum percentage may not be fixed at more than 5 %. Member States may, however, provide for the exclusion of non-voting shares from this calculation;
- (d) where a general meeting of the company being divided, required for the approval of the division, is not summoned, the information provided for by Article 7 (3) covers any material change in the asset and liabilities after the date of preparation of the draft terms of division.

CHAPTER II

Division by the formation of new companies

Article 21

1. For the purposes of this Directive, 'division by the formation of new companies' means the operation whereby, after being wound up without going into liquidation, a company transfers to more than one newly-formed company all its assets and liabilities in exchange for the allocation to the shareholders of the company being divided of shares in the recipient companies, and possibly a cash payment not exceeding 10 % of the nominal value of the shares allocated or, where they have no nominal value, of their accounting par value.

2. Article 4 (2) of Directive 78/855/EEC shall apply.

Article 22

1. Articles 3, 4, 5 and 7, 8 (1) and (2) and 9 to 19 of this Directive shall apply, without prejudice to Articles 11 and 12 of Directive 68/151/EEC, to division by the formation of new companies. For this purpose, the expression 'companies involved in a division' shall refer to the company being divided and the expression 'recipient companies' shall refer to each of the new companies.

2. In addition to the information specified in Article 3 (2), the draft terms of division shall indicate the form, name and registered office of each of the new companies.

3. The draft terms of division and, if they are contained in a separate document, the memorandum or draft memorandum of association and the articles or draft articles of association of each of the new companies shall be approved at a general meeting of the company being divided.

4. Member States may provide that the report on the consideration other than in cash as referred to in Article 10 of Directive 77/91/EEC and the report on the draft terms of division as referred to in Article 8 (1) shall be drawn up by the same expert or experts.

5. Member States may provide that neither Article 8, nor Article 9 as regards the expert's report, shall apply where the shares in each of the new companies are allocated to the shareholders of the company being divided in proportion to their rights in the capital of that company.

CHAPTER III

Division under the supervision of a judicial authority

Article 23

1. Member States may apply paragraph 2 where division operations are subject to the supervision of a judicial authority having the power:

- (a) to call a general meeting of the shareholders of the company being divided in order to decide upon the division;
- (b) to ensure that the shareholders of each of the companies involved in a division have received or can obtain at least the documents referred to in Article 9 in time to examine them before the

date of the general meeting of their company called to decide upon the division. Where a Member State makes use of the option provided for in Article 6 the period must be long enough for the shareholders of the recipient companies to be able to exercise the rights conferred on them by that Article;

- (c) to call any meeting of creditors of each of the companies involved in a division in order to decide upon the division;
 - (d) to ensure that the creditors of each of the companies involved in a division have received or can obtain at least the draft terms of division in time to examine them before the date referred to in (b);
 - (e) to approve the draft terms of division.
2. Where the judicial authority establishes that the conditions referred to in paragraph 1 (b) and (d) have been fulfilled and that no prejudice would be caused to shareholders or creditors, it may relieve the companies involved in the division from applying:
- (a) Article 4, on condition that the adequate system of protection of the interest of the creditors referred to in Article 12 (1) covers all claims regardless of their date;
 - (b) the conditions referred to in Article 6 (a) and (b) where a Member State makes use of the option provided for in Article 6;
 - (c) Article 9, as regards the period and the manner prescribed for the inspection of the documents referred to therein.

CHAPTER IV

Other operations treated as divisions

Article 24

Where, in the case of one of the operations specified in Article 1, the laws of a Member State permit the cash payment to exceed 10 %, Chapters I, II and III shall apply.

Article 25

Where the laws of a Member State permit one of the operations specified in Article 1 without the com-

pany being divided ceasing to exist, Chapters I, II and III shall apply, except for Article 17 (1) (c).

CHAPTER V

Final provisions

Article 26

1. The Member States shall bring into force before 1 January 1986, the laws, regulations and administrative provisions necessary for them to comply with this Directive provided that on that date they permit the operations to which this Directive applies. They shall immediately inform the Commission thereof.

2. Where, after the date mentioned in paragraph 1, a Member State permits division operations, it shall bring into force the provisions mentioned in that paragraph on the date on which it permits such operations. It shall immediately inform the Commission thereof.

3. However, provision may be made for a period of five years from the entry into force of the provisions referred to in paragraph 1 for the application of those provisions to unregistered companies in the United Kingdom and Ireland.

4. Member States need not apply Articles 12 and 13 as regards the holders of convertible debentures and other securities convertible into shares if, at the time when the provisions referred to in paragraph 1 or 2 come into force, the position of these holders in the event of a division has previously been determined by the conditions of issue.

5. Member States need not apply this Directive to divisions or to operations treated as divisions for the preparation or execution of which an act or formality required by national law has already been completed when the provisions referred to in paragraph 1 or 2 enter into force.

Article 27

This Directive is addressed to the Member States.

Done at Brussels, 17 December 1982.

For the Council

The President

H. CHRISTOPHERSEN

COUNCIL DECISION

of 21 December 1982

amending Decision 78/640/EEC on financial participation by the Community in inspection and surveillance operations in the maritime waters of Denmark and Ireland

(82/892/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas the introduction of a Community system for the conservation and management of fishery resources and the introduction of restrictions on fishing necessitate, in the Community interest, the protection of the resources and surveillance of the maritime waters which are within the jurisdiction of Member States;

Whereas Decision 78/640/EEC ⁽²⁾ provides that the Community shall participate in financing expenditure incurred in Denmark and Ireland between 1 January 1977 and 31 December 1982 in the implementation of short-term and medium-term measures to bring into service the appropriate specialized facilities for the inspection and surveillance of fishing activities;

Whereas the medium-term measures include in particular the purchase or construction of coast-guard vessels, the purchase of reconnaissance aircraft and the purchase and installation of the necessary technical, electronic and photographic equipment;

Whereas the implementation of these medium-term measures in Ireland has been delayed because of the complexity of designing new facilities, which must be particularly sophisticated to ensure total effectiveness in the inspection and surveillance of very large fishing areas;

Whereas the investments planned by Ireland cannot be fully implemented by 1 January 1983; whereas the time limit laid down should be deferred in the Community interest to enable the planned work to be completed and to ensure Community financial participation in the expenditure involved;

Whereas, to facilitate the work concerned, provision should be made for the Community to make advance payments to Ireland as and when the investment approved by the Commission is carried out,

HAS DECIDED AS FOLLOWS:

Article 1

Decision 78/640/EEC is hereby amended as follows:

1. Article 1 (2) is replaced by the following:

'2. The Community shall reimburse eligible expenditure incurred by Denmark and Ireland as a result of the introduction of the facilities referred to in paragraph 1:

- up to 10 million ECU in the case of Denmark for the period from 1 January 1977 to 31 December 1982,
- up to 46 million ECU in the case of Ireland for the period from 1 January 1977 to 31 December 1984.'

2. the following Article 1a shall be inserted after Article 1:

Article 1a

1. As a contribution towards implementation of the investments approved by the Commission, the Commission may make advance payments to the Government of Ireland of up to 80 % of the cost of the work envisaged for each annual phase.

2. Three months at the earliest before the start of actual work on an annual phase, the Govern-

⁽¹⁾ OJ No C 292, 8. 11. 1982, p. 91.

⁽²⁾ OJ No L 211, 1. 8. 1978, p. 34.

ment of Ireland may transmit a request to the Commission for advance payment from which it can be ascertained that the conditions for payment are fulfilled.

Six months after receipt of an advance payment, the Government of Ireland shall show to the satisfaction of the Commission that the work carried out amounts to at least 6.5 % of the annual phase, multiplied by the number of months since the date of commencement of the work as given in the request for advance payment. If such cannot be shown, the Government of Ireland will be required to return the advance payment received.

3. Requests for advance payments relating to subsequent annual phases of work may be made once at least 80 % of the work planned for the preceding phase has been completed and any earlier phases have been concluded.

4. Three months at the latest after the planned completion of an annual phase of work for which advance payment has been made, the Government of Ireland shall forward a request for the finalization of the aid granted for that phase. If such a request cannot be made, the Government of Ireland shall be required to return the advance payment received.';

3. the first sentence in point 2 of the Annex shall be replaced by the following:

2. The medium-term measures must be implemented:

- before 1 January 1983 in the case of Denmark, and
- before 1 January 1985 in the case of Ireland.';

4. point 6 of the Annex shall be replaced by the following:

6. Applications for reimbursement shall relate to expenditure incurred by the Government of Ireland in the course of a calendar year or part of a calendar year greater than three months. Applications shall be forwarded to the Commission within six months in the case of expenditure during a calendar year and within three months in the case of expenditure during part of a calendar year.'

Article 2

This Decision is addressed to the Kingdom of Denmark and to Ireland.

Done at Brussels, 21 December 1982.

For the Council

The President

O. MØLLER

COUNCIL DIRECTIVE**of 21 December 1982****amending Directives 64/432/EEC and 72/461/EEC as regards certain measures relating to foot-and-mouth disease and swine vesicular disease****(82/893/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 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 Directive 64/432/EEC ⁽³⁾, as last amended by Directive 82/61/EEC ⁽⁴⁾, lays down the conditions to be met, as regards health, by live cattle and pigs intended for intra-Community trade;

Whereas, in view of the development of foot-and-mouth disease and swine vesicular disease in the Community, the Community measures provided for in Articles 4a and 4b of Directive 64/432/EEC should be retained for an additional period; whereas, in addition, if foot-and-mouth disease occurs accidentally in a limited part of the territory of a Member State, the right to apply the provisions in question must be retained if the disease is eliminated;

Whereas Directive 72/461/EEC ⁽⁵⁾, as last amended by Directive 81/476/EEC ⁽⁶⁾, lays down the conditions to be met, as regards health, by animals whose meat is intended for intra-Community trade;

Whereas, having regard to the trend of foot-and-mouth disease in the Community, the Community measures provided for by Article 13 of Directive 72/461/EEC should be retained,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 64/432/EEC is hereby amended as follows:

1. in the first subparagraph of Article 4a, the date '31 December 1982' shall be replaced by '31 December 1983';
2. in Article 4b:
 - (a) in the first and second subparagraphs, '31 December 1982', shall be replaced by '31 December 1983';
 - (b) the following paragraph shall be added:

'This Article shall continue to apply to:

- (i) the Member States defined in the introductory part of the first paragraph where foot-and-mouth disease has occurred in a limited part of their territory and has been eliminated,
- (ii) the Member States defined in points A and B of the first paragraph where foot-and-mouth disease has occurred in a limited part of their territory and has been eliminated.'

Article 2

In Article 13 of Directive 72/461/EEC, the date '31 December 1982' shall be replaced by '31 December 1983'.

Article 3

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 January 1983.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 21 December 1982.

For the Council

The President

O. MØLLER

⁽¹⁾ Opinion delivered on 17 December 1982 (not yet published in the Official Journal).

⁽²⁾ Opinion delivered on 17 December 1982 (not yet published in the Official Journal).

⁽³⁾ OJ No 121, 29. 7. 1964, p. 1977/64.

⁽⁴⁾ OJ No L 29, 6. 2. 1982, p. 13.

⁽⁵⁾ OJ No L 302, 31. 12. 1972, p. 24.

⁽⁶⁾ OJ No L 186, 8. 7. 1982, p. 20.

COUNCIL DIRECTIVE**of 21 December 1982****on the notification of animal diseases within the Community****(82/894/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 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 Community has issued regulations in respect of the health requirements for intra-Community trade in bovine animals and swine, fresh meat, fresh poultry meat and meat products;

Whereas the appearance or presence of certain contagious animal diseases presents a risk to the Community herd, notably by their spread as a result of intra-Community trade; whereas rapid and accurate information is essential for the application of the various protection measures provided for in Community regulations;

Whereas it is for each Member State to notify each other Member State and the Commission of the outbreak and disappearance of certain animal diseases on its territory, in accordance with Article 9 of Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade on bovine animals and swine ⁽³⁾, as last amended by Council Directive 80/1274/EEC ⁽⁴⁾; Article 11 of Council Directive 71/118/EEC of 15 February 1971 dealing with health problems affecting trade in fresh poultrymeat ⁽⁵⁾, as last amended by Council Directive 80/216/EEC ⁽⁶⁾; Article 7 of Council Directive 72/461/EEC of 12 December 1972 on health problems affecting

intra-Community trade in fresh meat ⁽⁷⁾, as last amended by Council Directive 80/1099/EEC ⁽⁸⁾ and Article 7 of Council Directive 80/215/EEC of 22 January 1980 on animal health problems affecting intra-Community trade in meat products ⁽⁹⁾, as last amended by Council Directive 80/1100/EEC ⁽¹⁰⁾;

Whereas the method of notification and the diseases to be notified require to be specifically laid down; whereas, in particular, there should be a periodic review of the disease situation in each Member State;

Whereas, in the light of the experience gained from the aforesaid notification, adaptation to technical needs will be in line with a procedure calling for close cooperation between the Member States and the Commission,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive refers to the notification of:
 - outbreaks of any of the diseases listed in Annex I,
 - removal — after eradication of the last outbreak — of restrictions in relation to the outbreak of any diseases listed in Annex I.
2. This Directive shall apply without prejudice to the particular provisions for information in respect of the harmonization of eradication and/or prophylaxis of animal disease.

Article 2

For the purposes of this Directive:

- (a) 'holding' means any establishment (agricultural or other) situated in the territory of a Member State, in which animals are reared or kept;

⁽¹⁾ Opinion delivered on 12/13 April 1982 (not yet published in the Official Journal).

⁽²⁾ OJ No C 112, 3. 5. 1982, p. 4.

⁽³⁾ OJ No 121, 29. 7. 1964, p. 1977/64.

⁽⁴⁾ OJ No L 375, 31. 12. 1980, p. 75.

⁽⁵⁾ OJ No L 55, 8. 3. 1971, p. 23.

⁽⁶⁾ OJ No L 47, 21. 2. 1980, p. 8.

⁽⁷⁾ OJ No L 302, 31. 12. 1972, p. 24.

⁽⁸⁾ OJ No L 325, 1. 12. 1980, p. 14.

⁽⁹⁾ OJ No L 47, 21. 2. 1980, p. 4.

⁽¹⁰⁾ OJ No L 325, 1. 12. 1980, p. 16.

- (b) 'case' means the official confirmation of any of the diseases listed in Annex I in any animal or carcase;
- (c) 'outbreak' means the holding or place situated in the territory of the Community where animals are assembled and where one or more cases has or have been officially confirmed;
- (d) 'primary outbreak' means an outbreak not epizootiologically linked with a previous outbreak in the same region of a Member State as defined in Article 2 of Directive 64/432/EEC or the first outbreak in a different region of the same Member State.

Article 3

1. Each Member State shall notify directly to both the Commission and the other Member States within 24 hours:

- the primary outbreak of any of the diseases listed in Annex I which is confirmed in its territory;
- the removal — after the eradication of the last outbreak — of restrictions from its territory in relation to the outbreak of any of the diseases listed in Annex I;

2. The notifications referred to in paragraph 1 shall include the information featured in Annex II and shall be communicated by telex.

3. In the case of classical swine fever, the information provided under Council Directive 80/217/EEC of 22 January 1980 introducing Community measures for the control of classical swine fever⁽¹⁾, as last amended by Directive 80/1274/EEC⁽²⁾, shall be considered to be sufficient.

Article 4

1. Without prejudice to the provisions referred to in Article 1 (2), each Member State shall notify directly to the Commission, at least on the first working day of each week, the secondary outbreaks of any of the diseases listed in Annex I which are confirmed in its territory.

The aforesaid notification shall cover the week ending at midnight on the Sunday prior thereto.

The Commission shall correlate the various information, which it shall transmit to the veterinary headquarters of each Member State.

2. The receipt of no information by the Commission shall be considered to mean that no secondary outbreaks have occurred during the period referred to in the second subparagraph of paragraph 1.

3. The notifications referred to in paragraph 1 shall contain the information featured in Annex II and shall be communicated by telex.

Article 5

1. The codified form by which the information featured in Annex II is to be transmitted shall be established according to the procedure laid down in Article 6 and before the date of implementation of this Directive.

2. In accordance with the procedure laid down in Article 6, it may be decided:

- to supplement or amend the Annexes,
- that, notwithstanding Article 4, the scope, content and frequency of the notification may be temporarily modified in the light of the disease concerned and its particular epizootiological development.

Article 6

1. Where the procedure laid down in this Article is to be followed, the matter shall without delay be referred by the chairman, either, on his own initiative or at the request of a Member State, to the Standing Veterinary Committee (hereinafter referred to as 'the committee') set up by the Council Decision of 15 October 1968.

2. Within the committee, the votes of the Member States shall be weighted as laid down in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The representative of the Commission shall submit a draft of the measures to be adopted. The committee shall deliver its opinion on these measures within a time limit set by the chairman, having regard to the urgency of the questions under examination. Opinions shall be delivered by a majority of 45 votes.

4. The Commission shall adopt the measures and shall implement them immediately, where they are in accordance with the opinion of the committee. Where the measures envisaged are not in accord-

⁽¹⁾ OJ No L 47, 21. 2. 1980, p. 11.

⁽²⁾ OJ No L 375, 31. 12. 1980, p. 75.

ance with the opinion of the committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal on the measures to be taken. The Council shall adopt the measures by a qualified majority.

If the Council has not adopted any measures within three months from the date on which the matter is referred to it, the Commission shall adopt the proposed measures and shall implement them immediately, unless the Council has voted against the said measures by a simple majority.

Article 7

The Member States shall bring into force the laws, regulations and administrative provisions necessary

to comply with this Directive not later than 1 January 1984 and shall forthwith inform the Commission thereof.

Article 8

This Directive is addressed to the Member States.

Done at Brussels, 21 December 1982.

For the Council

The President

O. MØLLER

*ANNEX I***Diseases which are the subject of the notification**

Foot-and-mouth disease

Rinderpest (cattle plaque)

Contagious bovine pleuropneumonia

Bluetongue

Swine vesicular disease

Classical swine fever

African swine fever

Teschen disease (contagious swine paralysis)

Fowl plaque

Newcastle disease

*ANNEX II***Information given under the notification**

1. Information required by Article 3 in relation to primary outbreaks of the diseases listed in Annex I:
 1. Date of dispatch
 2. Time of dispatch
 3. Name of Member State
 4. (a) Name of disease
(b) Type of virus, if appropriate
 5. Date of confirmation
 6. Geographical location of the holding
 7. Number of susceptible animals on premises (a) cattle, (b) pigs, (c) sheep, (d) goats, (e) poultry
 8. Number of stock slaughtered (a) cattle, (b) pigs, (c) sheep, (d) goats, (e) poultry
 9. Number of carcasses destroyed (a) cattle, (b) pigs, (c) sheep, (d) goats, (e) poultry.
 2. Information required by Article 4 in relation to secondary outbreaks of the diseases listed in Annex I;
 1. Date of dispatch
 2. Time of dispatch
 3. Name of Member State
 4. For each disease notified:
 - (a) Name of disease
 - (b) Number of outbreaks
 3. Information required by Article 3 in relation to removal of restrictions imposed in a Member State after the eradication of the last outbreak of any of the diseases listed in Annex I.
 1. Date of dispatch
 2. Time of dispatch
 3. Name of Member State
 4. Name of disease
 5. Date of removal of restrictions
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COUNCIL DECISION**of 21 December 1982****on a financial contribution from the Community to the campaign against foot-and-mouth disease in south-east Europe**

(82/895/EEC)

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

HAS DECIDED AS FOLLOWS:

Article 1

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

The Community shall contribute to the campaign waged in the countries of south-east Europe against exotic foot-and-mouth viruses. The Commission shall be responsible for paying aid to the FAO programme for 1982 and 1983.

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

Article 2

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

The Commission shall be responsible for supervising the manner in which the aid provided for in Article 1 is used. It shall report to the Council and to the European Parliament on the implementation of this Decision.

Whereas there have been outbreaks of foot-and-mouth disease caused by viruses foreign to the Community in recent years in certain regions of south-east Europe; whereas the danger to Community livestock from such exotic foot-and-mouth viruses has not yet been removed; whereas, consequently, aid should continue to be granted to the non-member countries concerned to enable them to apply measures designed to prevent the spread of these viruses, in particular by the creation of buffer zones in these regions,

Done at Brussels, 21 December 1982.

*For the Council**The President*

O. MØLLER

⁽¹⁾ OJ No C 264, 8. 10. 1982, p. 7.

⁽²⁾ Opinion delivered on 17 December 1982 (not yet published in the Official Journal).

THE COMMUNITY LEGAL ORDER

Jean-Victor LOUIS

The European Communities are not simply a forum of discussion and negotiation between States. Their institutional structure, far more complex and original than that of traditional international organizations, has given birth to a vast quantity of legislation, most of which can be relied upon directly before national courts. The Court of Justice of the three Communities is faced with a workload increasing year by year in its efforts both to clarify the interpretation of Community law for the benefit of national courts and to resolve disputes between the institutions and individuals or Member States. In short, the Communities constitute a unique legal order with a highly complex structure, which penetrates further every day into economic and social reality in the Member States, yet still remains largely unrecognized.

This work on 'The Community legal order' from the pen of Professor Jean-Victor Louis of the Free University of Brussels, published by the Commission of the European Communities, is designed to enable the reader, with very little expenditure of time, to familiarize himself with the main characteristics of this system. It is written in a form easily understood by the layman, but its precise information and critical approach make it equally suitable for use by lawyers as a work of reference.

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