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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC, EURATOM, ECSC) No 3947/92**of 21 December 1992****amending the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing a Single Council and a Single Commission of the European Communities, and in particular Article 24 thereof,

Having regard to the proposal from the Commission, submitted after consulting the Staff Regulations Committee ⁽¹⁾,

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

Having regard to the opinion of the Court of Justice,

Whereas, for matters in respect of which joint management by the institutions is desirable, provision should be made to delegate to one of them the powers conferred on the appointing authority;

Whereas it is desirable to establish a system of inter-institutional competitions, to be organized by two or more institutions, according to uniform criteria and resulting in a common reserve list; whereas provision should therefore be made for setting up a common Joint Committee;

Whereas it should be possible for the limits on additional seniority in grade laid down in the second subparagraph of Article 32 of the Staff Regulations to be exceeded in the case of a member of temporary staff appointed as a probationer official in order to take account of his years of service as a member of temporary staff;

Whereas the arrangements governing the probationary period should be adjusted to enable the probationer's merits to be assessed more accurately;

Whereas it is desirable to modify the end-of-probation dismissal procedure so that the appointing authority is better placed to take an informed decision;

Whereas, in the event of dismissal, the former probationer's pecuniary interests should be protected in view of the increase in the duration of the probationary period;

Whereas it is desirable to widen the scope for seconding officials to temporary posts;

Whereas each institution should be given the option, if it deems this appropriate to its staffing requirements, of derogating from Article 45 (2) of the Staff Regulations in order to allow the transfer without competition of officials from the Language Service to Category A and vice-versa, having regard to the specific qualifications of officials in that service and that category;

Whereas the recruitment conditions and career prospects of law clerks at the Court of Justice should be improved;

Whereas it is advisable to amend Article 81 of the Conditions of Employment of Other Servants to give the institutions the option of going to arbitration in the event of a dispute with a member of local staff serving in a third country;

Whereas Article 2 of Regulation (EEC, Euratom, ECSC) No 259/68 ⁽³⁾ lays down the Staff Regulations of Officials of the European Communities and Article 3 thereof lays down the Conditions of Employment of Other Servants of such Communities,

⁽¹⁾ OJ No C 55, 2. 3. 1991, p. 6.

⁽²⁾ OJ No C 295, 26. 11. 1990, p. 203.

⁽³⁾ OJ No L 56, 4. 3. 1968, p. 1. Regulation as last amended by Regulation (EEC, Euratom, ECSC) No 571/92 (OJ No L 62, 7. 3. 1992, p. 1).

HAS ADOPTED THIS REGULATION:

CHAPTER I

Amendments to the Staff Regulations of Officials of the European Communities

Article 1

1. The following subparagraph shall be added to Article 2:

'However, two or more institutions may entrust to one of them or to an interinstitutional body the exercise of the powers conferred on the appointing authority in respect of recruitment and of the social security and pension schemes.'

2. The following Article shall be inserted:

'Article 91a

Requests and complaints relating to the areas to which the third subparagraph of Article 2 has been applied shall be lodged with the appointing authority entrusted with the exercise of powers. Any appeals shall be made against the institution to which that appointing authority is answerable.'

3. The following shall be added, in the brackets, to Article 1 (1) (a) of Annex III:

'(..., where appropriate, common to two or more institutions).'

Article 2

In Article 9 the following paragraph shall be inserted:

'1a. For the application of certain provisions of these Staff Regulations, a common Joint Committee may be established for two or more institutions.'

Article 3

Article 2 of Annex II is replaced by the following:

'Article 2

The Joint Committee or Committees of an institution shall consist of:

- a chairman appointed each year by the appointing authority,
- members and alternates appointed at the same time in equal numbers by the appointing authority and by the Staff Committee.

The common Joint Committee for one or more institutions shall consist of:

- a chairman appointed by the appointing authority referred to in the third subparagraph of Article 2 of the Staff Regulations,
- members and alternates appointed in equal numbers by the appointing authorities of the institutions represented on the common Joint Committee and by the Staff Committees.

The procedures for instituting the common Joint Committee shall be adopted by agreement between the institutions represented on the common Joint Committee, after consulting their Staff Committee.

An alternate shall vote only in the absence of a member.'

Article 4

In Annex II, the following Article shall be inserted:

'Article 3a

The common Joint Committee shall meet at the request either of the appointing authority referred to in the third subparagraph of Article 2 of the Staff Regulations or of an appointing authority or a Staff Committee of one of the institutions represented on that Joint Committee.

The proceedings of the common Joint Committee shall be valid only if all members or their alternates are present.

The Chairman of the common Joint Committee shall not vote save on questions of procedure.

The opinion of the common Joint Committee shall be communicated in writing to the appointing authority within the meaning of the third subparagraph of Article 2 of the Staff Regulations, to the other appointing authorities and to their Staff Committees within five days of its adoption.

Any member of the common Joint Committee may require that his views be recorded in the opinion of the Joint Committee.'

Article 5

The following subparagraph shall be added to Article 1 (1) of Annex III:

'Notice of open competitions common to two or more institutions shall be drawn up by the appointing authority referred to in the third subparagraph of Article 2 of the Staff Regulations, after consulting the common Joint Committee.'

Article 6

The following shall be inserted as a second subparagraph in Article 3 of Annex III:

'For open competitions common to two or more institutions, the Selection Board shall consist of a chairman appointed by the appointing authority referred to in the third subparagraph of Article 2 of the Staff Regulations and of members appointed by the appointing authority referred to in the third subparagraph of Article 2 of the Staff Regulations on a proposal from the institutions, as well as of members appointed by agreement between the Staff Committees of the institutions, in such a way as to ensure equal representation.'

The second and third subparagraphs shall become the third and fourth subparagraphs respectively.

Article 7

General provisions for giving effect to Articles 2 to 6 of this Regulation shall form the subject of rules drawn up by agreement between the institutions of the Communities after consulting the Staff Regulations Committee.

Article 8

The following third paragraph shall be added to Article 32:

'Members of the temporary staff graded in accordance with the grading criteria adopted by the institution shall retain the seniority acquired in that capacity if they are appointed officials in the same grade immediately following the period of temporary service.'

Article 9

Article 34 shall be replaced by the following:

'Article 34

1. Officials other than those in Grades A 1 and A 2 shall serve a probationary period before they can be established. The period shall be nine months for officials in Category A, in the Language Service and in Category B and six months for other officials.

Where, during his probationary period, an official is prevented, by sickness, maternity leave under Article 58, or accident, from performing his duties for a continuous period of at least one month, the appointing authority may extend his probationary period by the corresponding length of time.

2. A report on the probationer may be made at any time during the probationary period if his work is proving obviously inadequate.

This report shall be communicated to the person concerned, who shall have the right to submit his comments in writing within a period of eight days. The report and the comments shall be transmitted immediately by the probationer's immediate superior to the appointing authority, which shall, within a period of three weeks, obtain the opinion of the Joint Reports Committee on the action to be taken. The appointing authority may decide to dismiss the probationer before the end of the probationary period, giving him one month's notice; the period of service may not, however, exceed the normal probationary period.

However, the appointing authority may, in exceptional circumstances, authorize continuation of the probationary period and assign the official to another department. In this case the new assignment must be for at least six months; it shall be subject to the limits set out in paragraph 4.

3. One month at the latest before the expiry of the probationary period, a report shall be made on the ability of the probationer to perform the duties pertaining to his post and also on his efficiency and conduct in the service. This report shall be communicated to the probationer, who shall have the right to submit his comments in writing within a period of eight days.

Should it recommend dismissal or, in exceptional circumstances, extension of the probationary period, the report and the comments shall be transmitted immediately by the probationer's immediate superior to the appointing authority, which shall, within a period of three weeks, consult the Joint Reports Committee on the action to be taken.

A probationer whose work has not proved adequate for establishment in his post shall be dismissed. However, the appointing authority may, in exceptional circumstances, extend the probationary period for a maximum of six months, and possibly assign the probationer to another department.

4. The total length of the probationary period shall in no circumstances exceed 15 months.

5. Except where he is in a position forthwith to resume employment elsewhere, a dismissed probationer shall receive compensation equal to three months' basic salary if he has completed more than one year's service, two months' basic salary if he has completed at least six months' service and one months' basic salary if he has completed less than six months' service.

6. Paragraphs 2, 3, 4, and 5 shall not apply to officials who resign before the end of their probationary period.'

Article 10

The following third indent shall be added to the first subparagraph of Article 37, under (a),

'— to serve temporarily in a post which is included in the list of posts financed from the research and investment appropriations and which the budgetary authorities have classified as temporary.'

Article 11

The following paragraphs shall be added to Article 45:

'3. However, should the particular staffing requirements of an institution so dictate, a derogation may be made from paragraph 2 to allow officials to move from the Language Service to Category A and vice-versa by means of a transfer, in accordance with paragraph 4.

4. Should it decide to avail itself of this derogation, the appointing authority shall, taking due account of the opinion of the Joint Committee, determine the number of posts to which this measure may be applied. By the same procedure it shall decide on the criteria and conditions for the transfers contemplated, including consideration of the merits, training and professional experience of the officials concerned.

For officials in whose case the derogation authorized by paragraph 3 has been applied, seniority as referred to in paragraph 1 in the grade to which they transfer shall be calculated as from the date on which the transfer takes effect.

In his new grade an official shall in no case receive a basic salary lower than that which he would have received in his former grade.

Each Institution shall adopt general provisions for implementing paragraphs 3 and 4, in accordance with Article 110, as necessary.'

Article 12

Footnote 1 in Annex I shall be deleted.

CHAPTER II

Amendments to the Conditions of Employment of Other Servants of the European Communities

Article 13

Article 81 shall be replaced by the following:

'Article 81

1. Any dispute between the institution and a member of the local staff serving in a Member State shall be submitted to the competent court in accordance with the laws in force in the place where the servant performs his duties.

2. Any dispute between the institution and a member of the local staff serving in a third country shall be submitted to an arbitration board under the conditions defined in the arbitration clause contained in the servant's contract.'

CHAPTER III

Final provisions

Article 14

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

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

Done at Brussels, 21 December 1992.

For the Council

The President

D. HURD

COUNCIL REGULATION (ECSC, EEC, EURATOM) No 3948/92

of 22 December 1992

adjusting the weightings applicable to the remuneration of officials posted in non-member countries

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing a Single Council and a Single Commission of the European Communities,

Having regard to the Staff Regulations of officials and the conditions of employment of other servants of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾, as last amended by Regulation (ECSC, EEC, Euratom) No 3834/91 ⁽²⁾, and in particular Article 13 of Annex X thereto,

Having regard to the proposal from the Commission,

Whereas, to take account of changes in the cost of living in third countries, weightings applicable to the portion of remuneration payable in the currency of the country of employment must be determined with effect from 1 January 1992,

Article 1

With effect from 1 January 1992, the weightings applicable to remuneration payable in the currency of the country of employment are adjusted as shown in the Annex.

The exchange rates for the payment of such remuneration shall be those used for implementation of the budget of the European Communities during the month preceding the date on which this Regulation takes effect.

Article 2

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

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

Done at Brussels, 22 December 1992.

For the Council

The President

D. HURD

⁽¹⁾ OJ No L 56, 4. 3. 1968, p. 1.

⁽²⁾ OJ No L 361, 31. 12. 1991, p. 13.

ANNEX

Country of employment	Weightings applicable with effect from 1 January 1992	Country of employment	Weightings applicable with effect from 1 January 1992
Algeria	72,4300000	Mali	115,2100000
Angola	130,5300000	Malta	61,3700000
Antigua and Barbuda	92,9000000	Mauritania	101,0000000
Argentina	89,1600000	Mauritius	74,2600000
Australia	98,9400000	Mexico	58,6400000
Austria	123,5200000	Morocco	74,8800000
Bahamas (*)	0,0000000	Mozambique	65,7300000
Bangladesh	74,0800000	Namibia	71,6800000
Barbados	86,0200000	Netherlands Antilles	83,2900000
Belize	85,2400000	New Caledonia	124,8300000
Benin	88,5500000	Niger	113,6800000
Botswana	69,4000000	Nigeria	58,7800000
Brazil	35,3100000	Norway	137,1200000
Bulgaria	34,4200000	Pakistan	36,5300000
Burkina Faso	113,8100000	Papua New Guinea	90,2000000
Burundi	81,9000000	Peru	99,8600000
Cameroon	137,0300000	Philippines	39,9000000
Canada	85,4800000	Poland	63,9600000
Central African Republic	170,6200000	Republic of Cape Verde	86,8600000
Chad	144,1000000	Romania	30,9800000
Chile	73,9500000	Russia	121,1800000
China	80,3800000	Rwanda	105,4400000
Colombia	51,3800000	Sao Tome and Principe (*)	0,0000000
Comoros	119,1100000	Saudi Arabia	62,1100000
Congo	137,3800000	Senegal	132,9800000
Costa Rica	45,4300000	Seychelles	119,1400000
Cyprus	91,4900000	Sierra Leone	62,8900000
Czechoslovakia	39,8000000	Solomon Islands	74,6900000
Djibouti	119,2500000	Somalia	61,5800000
Dominican Republic	60,6200000	South Africa (Le Cap)	68,6400000
Egypt	40,3100000	South Africa (Pretoria)	64,8700000
Equatorial Guinea	107,5700000	South Korea	93,0800000
Ethiopia	89,9900000	Sudan	98,4000000
Fiji	61,5900000	Surinam	178,6700000
Finland	128,7500000	Swaziland	58,2100000
Gabon	181,4000000	Sweden	136,1600000
Gambia	69,4900000	Switzerland	129,6500000
Ghana	78,8000000	Syria	148,1500000
Grenada	94,5600000	Tanzania	57,0500000
Guatemala	46,5900000	Thailand	70,4500000
Guinea	96,0500000	Togo	100,1100000
Guinea Bissau	30,8100000	Tonga	82,6700000
Guyana	35,0200000	Trinidad and Tobago	78,2600000
Haiti	105,9800000	Tunisia	59,5300000
Hong Kong	87,7100000	Turkey	64,3900000
Hungary	54,2400000	Uganda	44,6600000
India	37,0400000	United States of America (New York)	108,6400000
Indonesia	80,1700000	United States of America (Washington)	98,4300000
Israel	109,8800000	Uruguay	86,0700000
Ivory Coast	125,2000000	Vanuatu	86,4000000
Jamaica	40,7600000	Venezuela	42,8500000
Japan	170,7700000	Vietnam	21,7900000
Jordan	75,9900000	Western Samoa	64,1200000
Kenya	64,0100000	Yugoslavia	117,1700000
Lebanon	26,2600000	Zaire	24,8000000
Lesotho	54,7200000	Zambia	67,8100000
Liberia	129,1100000	Zimbabwe	42,5000000
Madagascar	66,0800000		
Malawi	66,8700000		
Malaysia	83,2100000		

(*) Not available.

COUNCIL REGULATION (EEC) No 3949/92

of 21 December 1992

relating to the organization of a survey of labour costs in industry and the services sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 213 thereof,

Having regard to the proposal from the Commission,

Whereas, in order to carry out the tasks assigned to it by the Treaty, in particular those set out in Articles 2, 3, 117, 118, 122 and 123 thereof, the Commission must be kept informed of labour costs and workers' incomes in the Member States;

Whereas the statistical information available in each Member State does not provide a valid basis for comparisons, in particular because of the differences between the laws, regulations and administrative practices of the Member States, and whereas surveys must therefore be carried out and the results processed on the basis of uniform definitions and methods;

Whereas the best method of assessing the level, composition and trends of both labour costs and of workers' incomes is to carry out specific surveys, as was most recently done in 1989 in implementation of Council Regulation (EEC) No 1612/88 of 9 June 1988 relating to the organization of a survey of labour costs in industry, wholesale and retail distribution, banking and insurance⁽¹⁾, on the basis of accounting data relating to 1988;

Whereas, because of the major changes in the level and structure of expenditure by undertakings on wages and related employers' contributions, a new survey must be carried out based on accounting data for 1992 in industry, trade, banking and insurance, in order to bring up to date the results of the previous survey;

Whereas, because of the changes in the economic structures and the unemployment situation in the Member States the range of economic activities covered must be extended, particularly in the services sector;

Whereas, because of the size of the field covered, the survey must be based on a sample in order to avoid placing an excessive burden on the undertakings and the budgets of the European Communities and the Member States,

Article 1

As part of its periodic surveys on labour costs and workers' incomes, the Commission shall conduct a survey on labour costs in industry and certain services sectors in 1993 on the basis of accounting data relating to 1992.

Article 2

1. The survey shall cover undertakings or local units with at least 10 employees carrying out the activities defined in sections C, D, E, F, G, H and K, divisions 65 and 66, and group 63.3 of the Statistical Classification of Economic Activities within the European Communities, NACE (Rev. 1), taking account of the special provisions set out in the Annex to this Regulation.

2. The survey shall be carried out by sampling.

Article 3

Employers shall, in respect of the undertakings or local units in the sample, provide the information needed to determine labour costs on the basis of accounting data for 1992 under the conditions set out below.

Article 4

The survey shall cover:

1. wage costs, including bonuses and allowances, and all incidental expenditure, including in particular employers' contributions to social security and supplementary schemes and other social payments, including the cost of vocational training and any taxes and subsidies directly related to labour costs;
2. the total staff employed by the undertakings or local units; and
3. working hours.

Article 5

1. The information shall be collected by the statistical offices of the Member States, which shall draw up appropriate questionnaires.

⁽¹⁾ OJ No L 145, 11. 6. 1988, p. 1.

In cooperation with those offices, the Commission shall determine the list of characteristics and definitions to be used for the surveys.

The Commission shall also, under the same conditions, stipulate the starting and closing dates for the survey and deadlines for replying to the questionnaires.

2. Persons required to supply information shall reply to the questionnaires truthfully, completely and within the time limits set.

Article 6

1. The statistical offices of the Member States shall process the replies to the questionnaires.

After verification, and in accordance with the utilization programme defined by the Commission, they shall forward the results of the survey, including the data declared confidential by the Member States pursuant to domestic legislation or practice concerning statistical confidentiality, in accordance with the provisions of

Council Regulation (Euratom, EEC) No 1588/90 of 11 June 1990 on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities ⁽¹⁾. The said Regulation governs the confidential treatment of information.

2. The results shall be broken down by sector of economic activity according to NACE (Rev. 1), by region and by size category of undertaking or local unit.

Article 7

Individual items of information supplied for purposes of the survey may be used for statistical purposes only.

They may not be used for tax or other purposes or be communicated to third parties.

Article 8

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

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

Done at Brussels, 21 December 1992.

For the Council

The President

D. HURD

⁽¹⁾ OJ No L 151, 15. 6. 1990, p. 1.

*ANNEX***SPECIAL PROVISIONS**

(Article 2 (1))

I. Exceptions to the scope of the survey

1. For all the Member States: class 65.11.
2. For Germany: section H, divisions 50, 70 and 71, groups 51.1 and 63.3 and class 51.57.
Divisions 72, 73 and 74 will be excluded for the territory of the former German Democratic Republic, including East Berlin.
3. For Greece: section F, group 51.1 and class 51.57.
4. For Ireland: section H.

II. More detailed information

Member States may provide for the supply of more detailed information, for example by making a distinction between manual and non-manual workers or by covering units with fewer than 10 employees.

III. Use of a special nomenclature

In agreement with the Commission, a Member State may forward the results of the survey on the basis of the NACE classification (version 70).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE 92/104/EEC

of 3 December 1992

on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 118a thereof,

Having regard to the proposal from the Commission ⁽¹⁾, drawn up after consultation with the Safety and Health Commission for the Mining and Other Extractive Industries,

In cooperation with the European Parliament ⁽²⁾,

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

Whereas Article 118a of the Treaty provides that the Council shall adopt, by means of Directives, minimum requirements for encouraging improvements, especially in the working environment, to guarantee a better level of protection of the safety and health of workers;

Whereas, pursuant to that Article, such Directives must avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;

Whereas the improvement of workers' safety, hygiene and health at works is an objective which should not be subordinated to purely economic considerations;

Whereas Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) ⁽⁴⁾ does not apply to the extractive industries;

Whereas compliance with the minimum requirements designed to guarantee a better standard of safety and health for surface and underground mineral-extracting industries is essential to ensure the safety and health of workers;

Whereas surface and underground mineral-extracting industries constitute an area of activity likely to expose workers to particularly high levels of risk;

Whereas this Directive is an individual Directive within the meaning of Article 16 (1) of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work ⁽⁵⁾; whereas, therefore, the provisions of the said Directive apply in full to surface and underground mineral-extracting industries without prejudice to more stringent and/or specific provisions contained in this Directive;

Whereas the ancillary surface installations of surface and underground mineral-extracting industries which are not essential to the surface and underground mineral-extracting industries as defined in Article 2 (a) of this Directive are subject to the provisions of Directive 89/654/EEC;

Whereas, on 3 November 1992, the Council adopted Directive 92/91/EEC on the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (eleventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) ⁽⁶⁾;

Whereas this Directive is a practical contribution towards creating the social dimension of the internal market,

⁽¹⁾ OJ No C 58, 5. 3. 1992, p. 3.

⁽²⁾ OJ No C 150, 15. 6. 1992, p. 128, and
OJ No C 305, 23. 11. 1992.

⁽³⁾ OJ No C 169, 6. 7. 1992, p. 28.

⁽⁴⁾ OJ No L 393, 30. 12. 1989, p. 1.

⁽⁵⁾ OJ No L 183, 29. 6. 1989, p. 1.

⁽⁶⁾ OJ No L 348, 28. 11. 1992, p. 9.

HAS ADOPTED THIS DIRECTIVE:

SECTION I GENERAL PROVISIONS

Article 1

Subject

1. This Directive, which is the twelfth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC, lays down minimum requirements for the safety and health protection of workers in the surface and underground mineral-extracting industries defined in Article 2 (a).

2. The provisions of Directive 89/391/EEC shall apply in full to the sphere referred to in paragraph 1, without prejudice to more stringent and/or specific provisions contained in this Directive.

Article 2

Definitions

For the purpose of this Directive:

(a) *surface and underground mineral-extracting industries* shall mean all industries practising:

- surface or underground extraction, in the strict sense of the word, of minerals, and/or
- prospecting with a view to such extraction, and/or
- preparation of extracted materials for sale, excluding the activities of processing the materials extracted,

excluding the mineral-extracting industries through drilling defined in Article 2 (a) of Directive 92/91/EEC;

(b) *workplace* shall mean the whole area intended to house workstations, relating to the immediate and ancillary activities and installations of the surface or underground mineral-extracting industries, including overburden dumps and other tips and accommodation, where provided, to which workers have access in the context of their work.

SECTION II EMPLOYERS' OBLIGATIONS

Article 3

General obligations

1. To safeguard the safety and health of workers, the employer shall take the necessary measures to ensure that:

- (a) workplaces are designed, constructed, equipped, commissioned, operated and maintained in such a way that workers can perform the work assigned to them without endangering their safety and/or health and/or those of other workers;
- (b) the operation of workplaces when workers are present takes place under the supervision of a person in charge;
- (c) work involving a special risk is entrusted only to competent staff and carried out in accordance with the instructions given;
- (d) all safety instructions are comprehensible to all the workers concerned;
- (e) appropriate first-aid facilities are provided;
- (f) any relevant safety drills are performed at regular intervals.

2. The employer shall ensure that a document concerning safety and health, hereinafter referred to as 'safety and health document', covering the relevant requirements laid down in Articles 6, 9 and 10 of Directive 89/391/EEC, is drawn up and kept up to date.

The safety and health document shall demonstrate in particular that:

- the risks to which workers at the workplace are exposed have been determined and assessed,
- adequate measures will be taken to attain the aims of this Directive,
- the design, use and maintenance of the workplace and of the equipment are safe.

The safety and health document must be drawn up before work starts and be revised if the workplace has undergone major changes, extensions or conversions.

3. Where workers from several undertakings are present at the same workplace, each employer shall be responsible for all matters under his control.

The employer who, in accordance with national laws and/or practices, is in charge of the workplace, shall coordinate the implementation of all the measures concerning the safety and health of the workers and shall state, in his safety and health document, the aim of that coordination and the measures and procedures for implementing it.

The coordination shall not affect the responsibility of the individual employers as provided for in Directive 89/391/EEC.

4. The employer shall report any serious and/or fatal occupational accidents and situations of serious danger to the competent authorities as soon as possible.

Article 4

Protection from fire, explosions and health-endangering atmospheres

The employer shall take measures and precautions appropriate to the nature of the operation:

- to avoid, detect and combat the starting and spread of fires and explosions, and
- to prevent the occurrence of explosive and/or health-endangering atmospheres.

Article 5

Escape and rescue facilities

The employer shall provide and maintain appropriate means of escape and rescue in order to ensure that workers have adequate opportunities for leaving the workplaces promptly and safely in the event of danger.

Article 6

Communication, warning and alarm systems

The employer shall take the requisite measures to provide the necessary warning and other communication systems to enable assistance, escape and rescue operations to be launched immediately if the need arises.

Article 7

Keeping workers informed

1. Without prejudice to Article 10 of Directive 89/391/EEC, workers and/or their representatives shall be informed of all measures to be taken concerning safety and health at workplaces, and in particular of those relating to the implementation of Articles 3 to 6.

2. The information must be comprehensible to the workers concerned.

Article 8

Health surveillance

1. To ensure that workers receive health surveillance appropriate to the health and safety risks they incur at work, measures shall be introduced in accordance with national law and/or practices.

2. The measures referred to in paragraph 1 shall be such that each worker shall be entitled to, or shall undergo, health surveillance before being assigned to duties related to the activities referred to in Article 2 and subsequently at regular intervals.

3. Health surveillance may be provided as part of a national health system.

Article 9

Consultation of workers and workers' participation

Consultation and participation of workers and/or of their representatives shall take place in accordance with Article 11 of Directive 89/391/EEC on the matters covered by this Directive.

Article 10

Minimum requirements for safety and health

1. Workplaces used for the first time after the date on which this Directive is brought into effect as referred to in Article 13 (1) must satisfy the minimum safety and health requirement laid down in the Annex.

2. Workplaces already in use before the date on which this Directive is brought into effect as referred to in Article 13 (1) must satisfy the minimum safety and health requirements laid down in the Annex as soon as possible and at the latest nine years after that date.

3. When workplaces undergo changes, extensions and/or conversions after the date on which this Directive is brought into effect as referred to in Article 13 (1), the employer shall take the measures necessary to ensure that those changes, extensions and/or conversions are in compliance with the corresponding minimum requirements laid down in the Annex.

SECTION III

OTHER PROVISIONS

Article 11

Adjustments to the Annex

Purely technical adjustments to the Annex in line with:

- the adoption of Directive in the field of technical harmonization and standardization concerning surface or underground mineral-extracting industries,

and/or

— technical progress, changes in international regulations or specifications, and new findings concerning the surface or underground mineral-extracting industries,

shall be adopted in accordance with the procedure laid down in Article 17 of Directive 89/391/EEC.

Article 12

Mineral-extraction by dredging

Member States shall be entitled not to apply this Directive to mineral-extraction by dredging provided that they ensure the protection of the workers concerned in line with the general principles of the protection of the safety and health of workers laid down in this Directive, taking into account the specific risks involved in mineral-extraction by dredging.

Article 13

Final provisions

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 24 months after its adoption. They shall forthwith inform the Commission thereof.

2. When Member States adopt the measures referred to in paragraph 1, the measures shall contain a reference to this Directive or shall be accompanied by such

reference on the occasion of their official publication. The methods of making such a reference shall be laid down by Member States.

3. Member States shall communicate to the Commission the texts of the provisions of national law which they have already adopted, or are to adopt, in the field governed by this Directive.

4. Member States shall report to the Commission every five years on the practical implementation of this Directive, indicating the views of employers and workers.

The Commission shall inform the European Parliament, the Council, the Economic and Social Committee, the Safety and Health Commission for the Mining and Other Extractive Industries and the Advisory Committee on Safety, Hygiene and Health Protection at Work thereof.

Article 14

This Directive is addressed to the Member States.

Done at Brussels, 3 December 1992.

For the Council
The President
G. SHEPHARD

*ANNEX***MINIMUM SAFETY AND HEALTH REQUIREMENTS AS REFERRED TO IN ARTICLE 10 OF THE DIRECTIVE****Preliminary note**

The obligations laid down in this Annex apply whenever required by the features of the workplace, the activity, the circumstances or a specific risk.

PART A**COMMON MINIMUM REQUIREMENTS APPLICABLE TO SURFACE AND UNDERGROUND MINERAL-EXTRACTING INDUSTRIES AND TO ANCILLARY SURFACE INSTALLATIONS****1. Supervision and organization****1.1. Organization of workplaces**

1.1.1. Workplaces must be so organized as to provide adequate protection against hazards. They must be kept in good order, with any hazardous substances or deposits removed or controlled in order not to endanger the health and safety of workers.

1.1.2. Workstations must be designed and constructed according to ergonomic principles taking into account the need for workers to be able to follow operations taking place at their workstations.

1.1.3. Where workstations are occupied by lone workers, adequate supervision or means of communication must be provided.

1.2. Person in charge

A responsible person who has the skills and competence required for this duty, in accordance with the national laws and/or practices, and who has been appointed by the employer, must at all times be in charge of every workplace when workers are present.

The employer may personally assume responsibility for the workplace as referred to in the first subparagraph, if he has the skills and competence required for the purpose, in accordance with national laws and/or practices.

1.3. Supervision

To ensure workers' safety and health protection during all operations undertaken, the necessary supervision must be provided by persons having the skills and competence for this duty, in accordance with the national laws and/or practices, having been appointed by the employer or on his behalf and acting on his behalf.

Where required by the safety and health document, a supervisor must visit occupied workstations at least once during each shift.

The employer may personally undertake the supervision referred to in the first and second subparagraphs if he has the skills and competence required for the purpose, in accordance with national laws and/or practices.

1.4. Competent workers

When workers are present at any workplace, there must be a sufficient number of workers with the requisite skills, experience and training to perform the tasks assigned to them.

1.5. Information, instructions and training

Workers must be given the necessary information, instructions, training and re-training to ensure their health and safety.

The employer must ensure that workers receive comprehensible instructions so as not to endanger their safety and health or those of other workers.

1.6. *Written instructions*

Written instructions specifying rules to be observed to ensure the safety and health of workers and the safe use of equipment must be drawn up for every workplace.

These must include information on the use of emergency equipment and action to be taken in the event of an emergency at or near the workplace.

1.7. *Safe working methods*

Safe working methods must be applied at each workplace or in respect of each activity.

1.8. *Work permits*

Where required by the safety and health document, a system of work permits must be introduced for carrying out both hazardous activities and usually straightforward activities which may interact with other activities to cause serious hazards.

Work permits must be issued by a person in charge before work starts and must specify the conditions to be fulfilled and the precautions to be taken before, during and after work.

1.9. *Regular review of safety and health measures*

The employer must ensure that the measures taken to protect the safety and health of the workers, including the safety and health management system, are regularly reviewed to ensure compliance with this Directive.

2. **Mechanical and electrical equipment and plant**

2.1. *General*

Selection, installation, commissioning, operation and maintenance of mechanical and electrical equipment must take place with due regard for the safety and health of workers, taking into consideration other provisions of this Directive and of Directives 89/392/EEC ⁽¹⁾ and 89/655/EEC ⁽²⁾.

If located in an area within which risk of fire or explosion from ignition of gas, vapour or volatile liquid exists, or is likely to exist, equipment must be suitable for use in that area.

Equipment must, if necessary, be fitted with suitable protective devices and fail-safe systems.

2.2. *Specific provisions*

Mechanical equipment and plant must be of adequate strength and free from patent defect and suitable for the purpose for which it is intended.

Electrical equipment and plant must be of sufficient size and power for the purpose for which it is intended.

Mechanical and electrical equipment and installations must be so installed and protected as to prevent danger.

3. **Maintenance**

3.1. *General maintenance*

A suitable scheme should be set up providing for the systematic examination, maintenance and, where appropriate, testing of mechanical and electrical equipment and plant.

All maintenance, examination and testing of any part of the plant and equipment must be carried out by a competent person.

Records of examinations and tests must be made and kept in an appropriate manner.

⁽¹⁾ OJ No L 183, 29. 6. 1989, p. 9. Directive amended by Directive 91/368/EEC (OJ No L 198, 22. 7. 1991, p. 16).

⁽²⁾ OJ No L 393, 30. 12. 1989, p. 13.

3.2. *Safety equipment maintenance*

Adequate safety equipment must be maintained ready for use and in good working order at all times.

Maintenance must be undertaken with due regard to operations.

4. **Protection from explosion risks, harmful atmospheres and fire hazards**

4.1. *General*

4.1.1. Measures must be taken for assessing the presence of harmful and/or potentially explosive substances in the atmosphere and for measuring the concentration of such substances.

Where required by the safety and health document, monitoring devices measuring gas concentrations at specified places automatically and continuously, automatic alarms and devices to cut off power automatically from electrical installations and internal combustion engines must be provided.

Where automatic measurements are provided for, the values measured must be recorded and kept as stipulated in the safety and health document.

4.1.2. Smoking is forbidden in areas subject to particular fire or explosion hazards.

The use of any open flame and the execution of any work that may give rise to an ignition hazard is prohibited unless adequate safety precautions are taken to prevent the occurrence of fires or explosions.

4.2. *Protection from explosion risks*

4.2.1. All necessary measures must be taken to combat the formation and accumulation of explosive atmospheres.

4.2.2. In areas where there are risks of explosion, all necessary measures must be taken to prevent the ignition of explosive atmospheres.

4.2.3. An explosion prevention plan detailing the equipment and measures required must be prepared.

4.3. *Protection from harmful atmospheres*

4.3.1. Where harmful substances accumulate or may accumulate in the atmosphere, appropriate measures must be taken to ensure:

- (a) their suppression at source; or
 - (b) their extraction at source or removal; or
 - (c) dilution accumulations of such substances,
- in such a way that workers are not at risk.

The system must be capable of dispersing these harmful substances in such a way that workers are not at risk.

4.3.2. Without prejudice to Directive 89/656/EEC ⁽¹⁾, appropriate and sufficient breathing and resuscitation equipment must be available in areas where workers may be exposed to atmospheres which are harmful to health.

In such cases, a sufficient number of workers trained to use such equipment must be present at the workplace.

The equipment must be suitably stored and maintained.

4.3.3. Where toxic gases are, or may be, present in the atmosphere, a protection plan detailing the protective equipment available and the preventive measures taken must be available.

4.4. *Protection from fire hazards*

4.4.1. Wherever workplaces are designed, constructed, equipped, commissioned, operated or maintained, adequate measures must be taken to prevent fires from starting and spreading from the sources identified in the safety and health document.

Provision must be made for fast and effective fire-fighting.

⁽¹⁾ OJ No L 393, 30. 12. 1989, p. 18.

- 4.4.2. Workplaces must be equipped with appropriate fire-fighting equipment and, as necessary, with fire detectors and alarm systems.
- 4.4.3. Non-automatic fire-fighting equipment must be easily accessible and simple to use and, where necessary, protected from damage.
- 4.4.4. A fire protection plan detailing the precautions to be taken, in accordance with Articles 3, 4, 5 and 6 of this Directive, to protect against, detect and combat the outbreak and spread of fires must be kept on site.
- 4.4.5. The fire-fighting equipment must be indicated by signs in accordance with the national regulations transposing Directive 92/58/EEC ⁽¹⁾ into law.

Such signs must be placed at appropriate points and be made to last.

5. Explosives and initiating devices

Operations involving the storage, transport and use of explosives and initiating devices must be carried out by duly authorized and competent persons.

Such operations must be organized and performed in such a way that there is no risk to workers.

6. Traffic routes

- 6.1. It must be possible to reach workplaces without danger and leave them quickly and safely in an emergency.
- 6.2. Traffic routes, including stairs, fixed ladders and loading bays and ramps, must be calculated, dimensioned and located to ensure easy, safe and appropriate access for pedestrians or vehicles in such a way as not to endanger workers employed in the vicinity of these traffic routes.
- 6.3. Routes used for pedestrian traffic and/or goods traffic must be dimensioned in accordance with the number of potential users and the type of undertaking.

If means of transport are used on traffic routes, a sufficient safety clearance must be provided for pedestrians.
- 6.4. Sufficient clearance must be allowed between vehicle traffic routes and doors, gates, passages for pedestrians, corridors and staircases.
- 6.5. Traffic and access routes must be clearly identified for the protection of workers.
- 6.6. Where vehicles or machines enter workplaces, traffic regulations must be established as necessary.

7. Outdoor workplaces

- 7.1. Workstations, traffic routes and other areas or installations outdoors which are occupied or used by the workers in the course of their activity must be organized in such a way that pedestrians and vehicles can circulate safely.
- 7.2. Workplaces outdoors must be adequately lit by artificial lighting if daylight is not adequate.
- 7.3. When workers are employed at workstations outdoors, such workstations must as far as possible be arranged so that workers:
 - (a) are protected against inclement weather conditions and if necessary against falling objects;
 - (b) are not exposed to harmful noise levels nor to harmful external influences such as gases, vapours or dust;
 - (c) are able to leave their workstations swiftly in the event of danger or are able to be rapidly assisted;
 - (d) cannot slip or fall.

⁽¹⁾ OJ No L 245, 26. 8. 1992, p. 23.

8. Danger areas

- 8.1. Danger areas must be clearly indicated.
- 8.2. If the workplaces contain danger areas in which, owing to the nature of the work, there are risks including that of the worker or objects falling, the places must be equipped, as far as possible, with devices preventing unauthorized workers from entering those areas.
- 8.3. Appropriate measures must be taken to protect workers authorized to enter danger areas.

9. Emergency routes and exits

- 9.1. In the event of danger, it must be possible for workers to evacuate all workstations quickly and as safely as possible.
- 9.2. Emergency routes and exits must remain clear and lead by the most direct means to the open air or to a safe area, a safe assembly point or a safe evacuation point.
- 9.3. The number, distribution and dimensions of the emergency routes and exits depend on the use, equipment and dimensions of the workplaces and the maximum number of persons that may be present.
- 9.4. Emergency doors must open outwards.

Emergency doors should not be so locked or fastened that they cannot be easily and immediately opened by any person who may require to use them in an emergency.
- 9.5. Emergency doors must not be locked.

The emergency routes and exits, and the traffic routes and doors giving access to them, must be free from obstruction so that they can be used at any time without hindrance.
- 9.6. Emergency routes and exits requiring illumination must be provided with emergency lighting of adequate intensity in case the lighting fails.
- 9.7. Specific emergency routes and exits must be indicated by signs in accordance with the national regulations transposing Directive 92/58/EEC into law.

10. Means of evacuation and escape

- 10.1. Workers must be trained in the appropriate actions to be taken in emergencies.
- 10.2. Rescue equipment must be provided at readily accessible and appropriately sited places and kept ready for use and must be indicated by signs in accordance with the national regulations transposing Directive 92/58/EEC into law.

11. Safety drills

Safety drills must be held at regular intervals at all workplaces at which workers are usually present.

The main purpose of such drills is to train and check the skills of workers to whom specific duties have been assigned in the event of emergency involving the use, handling or operation of emergency equipment.

Where appropriate, workers should also be drilled in the correct use, handling or operation of that equipment.

12. First-aid facilities

- 12.1. First-aid equipment must be available in all places where working conditions require it and must be appropriate to the operation.

This equipment must be indicated by suitable signs and easily accessible.

- 12.2. One or more first aid rooms must be provided where the size of the premises, type of activity being carried out and frequency of accidents so dictate.

Clearly visible first-aid instruction in the event of accidents must be displayed in these rooms.

- 12.3. First-aid rooms must be fitted with essential first-aid installations and equipment and be easily accessible to stretchers.

They must be signposted in accordance with the national regulations transposing Directive 92/58/EEC into law.

- 12.4. In addition, first-aid equipment must be available in all places where working conditions require it.

This equipment must be suitably marked and easily accessible.

- 12.5. A sufficient number of workers must be trained in the use of the first-aid equipment provided.

13. Natural and artificial lighting

- 13.1. Every workplace must be provided throughout with lighting capable of supplying illumination sufficient to ensure the health and safety of persons therein.

- 13.2. Workplaces must as far as possible receive sufficient natural light and, bearing in mind the climatic conditions, be equipped with artificial lighting for the protection of workers' safety and health.

- 13.3. Lighting installations in rooms containing workplaces and in passageways must be placed in such a way that the type of lighting does not present a risk of accident to workers.

- 13.4. Workplaces in which workers are exposed to risks in the event of failure of artificial lighting must be provided with emergency lighting of adequate intensity.

Where that is impossible, workers must be provided with personal lamps.

14. Sanitary installations

14.1. Changing rooms and lockers

- 14.1.1. Appropriate changing rooms must be provided for workers if they have to wear special work clothes and where, for reasons of health or propriety, they cannot be expected to change in another room.

Changing rooms must be easily accessible, be of sufficient capacity and be provided with seating.

- 14.1.2. Changing rooms must be sufficiently large and have facilities to enable each worker to lock away his/her clothes during working hours.

If circumstances so require (e.g. dangerous substances, humidity, dirt), lockers for work clothes must be separate from those for ordinary clothes.

Provision must be made to enable wet work clothes to be dried.

- 14.1.3. Provision must be made for separate changing rooms or separate use of changing rooms for men and women.

- 14.1.4. If changing rooms are not required under 14.1.1, each worker must be provided with a place to store his/her clothes.

14.2. Showers and washbasins

- 14.2.1. Adequate and suitable showers must be provided for workers if required by the nature of the work or for health reasons.

Provision must be made for separate shower rooms or separate use of shower rooms for men and women.

- 14.2.2. The shower rooms must be sufficiently large to permit each worker to wash without hindrance in conditions of an appropriate standard of hygiene.

The showers must be equipped with hot and cold water.

- 14.2.3. Where showers are not required under the first subparagraph of 14.2.1, adequate and suitable washbasins with hot and cold water must be provided in the vicinity of the workstations and the changing rooms.
- Such washbasins must be separate for, or used separately by, men and women when so required for reasons of propriety.
- 14.3. *Lavatories and washbasins*
- Separate facilities must be provided in the vicinity of workstations, rest rooms, changing rooms and rooms housing showers or washbasins, with an adequate number of lavatories and washbasins.
- Provisions must be made for separate lavatories or separate use of lavatories for men and women.
- In the case of underground mineral-extracting industries, the sanitary installations referred to in this section may be located on the surface.
15. **Overburden dumps and other tips**
- Overburden dumps, spoil heaps and other tips, as well as settling lagoons, must be designed, constructed, operated and maintained in such a way as to ensure their stability, as well as the safety and health of workers.
16. **Ancillary surface installations (additional special provisions)**
- 16.1. *Stability and solidity*
- Workplaces must be designed, constructed, erected, operated, supervised and maintained to withstand the environmental forces anticipated.
- They must have a structure and solidity appropriate to the nature of their use.
- 16.2. *Floors, walls, ceilings and roofs of rooms*
- 16.2.1. The floors of workplaces must have no dangerous bumps, holes or slopes and must be fixed, stable and not slippery.
- Workplaces containing workstations must be adequately insulated against heat, bearing in mind the type of undertaking involved and the physical activity of the workers.
- 16.2.2. The surfaces of floors, walls and ceilings in rooms must be such that they can be cleaned or refurbished to an appropriate standard of hygiene.
- 16.2.3. Transparent or translucent walls, in particular all-glass partitions, in rooms or in the vicinity of workplaces and traffic routes must be clearly indicated and made of safety material or be shielded from such places or traffic routes to prevent workers from coming into contact with walls or being injured should the walls shatter.
- 16.2.4. Access to roofs made of materials of insufficient strength must not be permitted unless equipment is provided to ensure that the work can be carried out in a safe manner.
- 16.3. *Room dimensions and air space in rooms — freedom of movement at the workstation*
- 16.3.1. Workrooms must have sufficient surface area, height and air space to allow workers to perform their work without risk to their safety, health or well-being.
- 16.3.2. The dimensions of the unoccupied area at the workstation must allow workers sufficient freedom of movement and enable them to perform their work safely.
- 16.4. *Windows and skylights*
- 16.4.1. Windows, skylights and ventilation devices which are meant to be opened, adjusted or secured must be designed so that these operations can be carried out safely.
- They must not be positioned so as to constitute a hazard to workers when open.
- 16.4.2. It must be possible to clean windows and skylights without risk.

16.5. *Doors and gates*

- 16.5.1. The position, number and dimensions of doors and gates, and the materials used in their construction, are determined by the nature and use of the rooms or areas.
- 16.5.2. Transparent doors must be appropriately marked at a conspicuous level.
- 16.5.3. Swing doors and gates must be transparent or have see-through panels.
- 16.5.4. If transparent or translucent surfaces in doors and gates are not made of safety material and if there is a danger that workers may be injured if a door or gate should shatter, the surfaces must be protected against breakage.
- 16.5.5. Sliding doors must be fitted with a safety device to prevent them from being derailed and falling over unexpectedly.
- 16.5.6. Doors and gates opening upwards must be fitted with a mechanism to secure them against falling back unexpectedly.
- 16.5.7. Doors along escape routes must be appropriately marked.
- It must be possible to open them from the inside at any time without special assistance.
- It must be possible to open the doors when the workplaces are occupied.
- 16.5.8. Doors for pedestrians must be provided in the immediate vicinity of any gates intended essentially for vehicle traffic, unless it is safe for pedestrians to pass through; such doors must be clearly marked and left permanently unobstructed.
- 16.5.9. Mechanical doors and gates must function without risk of accident to workers.
- They must be fitted with easily identifiable and accessible emergency shut-down devices and, unless they open automatically in the event of a power failure, it must also be possible to open them manually.

16.6. *Ventilation of enclosed workplaces*

- 16.6.1. Steps shall be taken to ensure that there is sufficient fresh air in enclosed workplaces, having regard to the working methods used and the physical demands placed on the workers.
- If a forced ventilation system is used, it must be maintained in working order.
- Any breakdown must be indicated by a control system where this is necessary for workers' health.
- 16.6.2. If air-conditioning or mechanical ventilation installations are used, they must operate in such a way that workers are not exposed to draughts which cause discomfort.
- Any deposit or dirt likely to create an immediate danger to the health of workers by polluting the atmosphere must be removed without delay.

16.7. *Room temperature*

- 16.7.1. During working hours, the temperature in rooms containing workstations must be suitable for human beings, having regard to the working methods being used and the physical demands placed on the workers.
- 16.7.2. The temperature in rest areas, rooms for duty staff, sanitary facilities canteens and first aid rooms must be appropriate to the particular purpose of such areas.
- 16.7.3. Windows, skylights and glass partitions should allow excessive effects of sunlight in workplaces to be avoided, having regard to the nature of the work and of the workplace.

16.8. *Rest rooms*

- 16.8.1. Where the safety or health of workers, in particular because of the type of activity carried out or the presence of more than a certain number of employees, so requires, workers must be provided with an easily accessible rest room.
- This provision does not apply if the workers are employed in offices or similar workrooms providing equivalent relaxation during breaks.
- 16.8.2. Rest rooms must be large enough and equipped with an adequate number of tables and seats with backs for the number of workers.
- 16.8.3. In rest rooms appropriate measures must be introduced for the protection of non-smokers against discomfort caused by tobacco smoke.

- 16.8.4. If working hours are regularly and frequently interrupted and there is no rest room, other rooms must be provided in which workers can stay during such interruptions, wherever this is required for the safety or health of workers.

Appropriate measures should be taken for the protection of non-smokers against discomfort caused by tobacco smoke.

17. Pregnant women and nursing mothers

Pregnant women and nursing mothers must be able to lie down to rest in appropriate conditions.

18. Disabled workers

Workplaces must be organized to take account of disabled workers, if necessary.

This provision applies in particular to the doors, passageways, staircases, showers, washbasins, lavatories and workstations used or occupied directly by disabled workers.

PART B

SPECIAL MINIMUM REQUIREMENTS APPLICABLE TO SURFACE MINERAL-EXTRACTING INDUSTRIES

1. General

- 1.1. Without prejudice to Article 3 (2), the employer who, in accordance with national legislation and/or practice, is responsible for the workplace covered by this Part B must ensure that the safety and health document shows that all relevant measures have been taken to protect the safety and health of workers in both normal and critical situations.

- 1.2. The safety and health document must be brought up to date regularly and be available for inspection at the workplace.

Work must be carried out in accordance with the safety and health document.

2. Operation

- 2.1. Work must be planned taking into account the elements of the safety and health document which concern the risks of falls or slips of ground.

Consequently, as a preventive measure, the height and slope of overburden-stripping and extraction faces must be appropriate to the nature and stability of the ground and the methods of working.

- 2.2. Benches and haul roads must be stable enough for the plant used.

They must be constructed and maintained in such a way that plant can be moved safely.

- 2.3. Before the start or restart of work, stripping and extraction faces above work areas or haul roads must be checked for loose ground or rocks.

Scaling must be carried out where necessary.

- 2.4. Faces and tips must not be worked in such a way that instability is created.

PART C

SPECIAL MINIMUM REQUIREMENTS APPLICABLE TO UNDERGROUND MINERAL-EXTRACTING INDUSTRIES

1. General

- 1.1. Without prejudice to Article 3 (2), the employer who, in accordance with national legislation and/or practice, is responsible for the workplace covered by this Part C must ensure that the safety and health document shows that all relevant measures have been taken to protect the safety and health of workers in both normal and critical situations.

- 1.2. The safety and health document must be brought up to date regularly and be available for inspection at the workplace.

Work must be carried out in accordance with the safety and health document.

2. **Plans of underground workings**

- 2.1. Plans of underground workings drawn to a scale which provides a clear representation must be prepared.

In addition to roadways and winning areas, they must show the known features which may influence working and safety.

They must be readily accessible and must be kept for as long as is necessary for safety purposes.

- 2.2. Plans of underground workings must be brought up to date periodically and held available at the workplace.

3. **Outlets**

All underground workings must have access to the surface via at least two separate outlets which are soundly constructed and readily accessible to underground workers.

Mechanical manwinding or manriding facilities must be available for these outlets if considerable physical effort is involved in negotiating them.

4. **Workings**

Workings where underground work is carried out must be constructed, operated, equipped and maintained so that workers can work and move in them with a minimum of risk.

Roadways must be signposted to help workers to find their way about the workings.

5. **Transport**

- 5.1. Transport facilities must be installed, operated and maintained in such a way as to ensure the safety and health of drivers, users and other persons in the vicinity.

- 5.2. Mechanical manwinding or manriding facilities must be properly installed and used in accordance with written instructions.

6. **Support and ground stability**

Support must be provided as soon as possible after excavation, except where the stability of the ground makes it unnecessary for the safety of workers. Support must be installed in accordance with plans and written instructions.

Workings accessible to workers must be inspected regularly for ground stability, and support maintained accordingly.

7. **Ventilation**

- 7.1. All underground workings to which access is permitted must be ventilated in an appropriate manner.

Continuous ventilation must be provided to maintain, with an adequate safety margin:

- a healthy atmosphere,
- an atmosphere in which the risks of explosion and respirable dust are kept under control,
- an atmosphere in which working conditions are adequate while work is in progress, having regard to the working methods being used and the physical demands placed on the workers.

- 7.2. Where the requirements of 7.1 cannot be met by natural ventilation, the main ventilation must be provided by means of one or more mechanical fans.

Steps must be taken to ensure stable and continuous ventilation.

The depression of the main fans must be monitored continuously, and an automatic alarm must indicate unscheduled stoppages.

- 7.3. The ventilation parameters must be measured periodically and recorded.

A ventilation plan containing the pertinent details of the ventilation system must be prepared, brought up to date periodically and held available at the workplace.

8. Gassy mines

- 8.1. An underground working is regarded as gassy if firedamp is likely to be released in such a quantity that the risk of formation of an explosive atmosphere cannot be excluded.

- 8.2. The main ventilation must be provided by one or more mechanical fans.

- 8.3. Working must proceed taking account of firedamp emission.

Steps must be taken to eliminate as far as possible the risks arising from firedamp.

- 8.4. Auxiliary ventilation must be limited to development and salvage work and to places with a direct connection to the main ventilation current.

Production workings may be ventilated by auxiliary systems only if appropriate additional measures are taken to ensure the safety and health of workers.

- 8.5. The ventilation measurement referred to under 7.3 must be supplemented by firedamp determinations.

Where required by the safety and health document, firedamp levels must also be continuously monitored in return airways from production units using mechanized extraction or underwinning and at the head ends of mechanized blind end workings.

- 8.6. Only explosives and initiating devices specifically for gassy mines may be used.

- 8.7. The provisions of 4.1.2 of Part A are replaced as follows:

- Smoking, carrying tobacco for smoking and any objects which may be used to produce a flame are prohibited.
- Flame cutting, welding and other similar operations are permitted only in exceptional circumstances and subject to specific measures ensuring the safety and health of the workers.

9. Mines containing flammable dusts

- 9.1. Coal mines are considered to be susceptible to flammable dusts except where the safety and health document shows that none of the seams being worked contains dust liable to propagate an explosion.

- 9.2. In mines with flammable dusts the provisions of 8.6 and 8.7 of this Part C apply *mutatis mutandis*.

- 9.3. Steps must be taken to reduce flammable dust deposits, and to remove, neutralize or bind the same.

- 9.4. Propagation of flammable dust and/or firedamp explosions which are liable to trigger further flammable dust explosions must be limited by installing a system of explosion barriers.

The locations of such explosion barriers must be indicated in a document which is brought up to date periodically and held available at the workplace.

10. Gas outbursts, rockbursts and water inrushes

- 10.1. In zones susceptible to gas outbursts with or without the projection of minerals or rock, rockbursts or water inrushes, an operating plan must be drawn up and implemented so as to ensure, as far as possible, a safe system of work and the protection of workers.
- 10.2. Measures must be taken to identify risk zones, protect workers in workings approaching or traversing these zones, and control the risks.

11. Fires, combustions and heatings

- 11.1. Provision must be made for the prevention and, where appropriate, the early detection of spontaneous combustion.
- 11.2. Flammable materials taken into underground workings must be limited to the quantities which are strictly necessary.
- 11.3. Where it is necessary to use hydraulic fluids (fluids for the transmission of hydrostatic and/or hydrokinetic mechanical energy), fluids which are difficult to ignite must, as far as possible, be used in order to avoid the risk of fire and its spread.

The hydraulic fluids must satisfy specifications and test conditions relating to fire resistance and hygiene criteria.

Where hydraulic fluids are used which do not satisfy the specifications, conditions and criteria referred to in the second subparagraph, additional precautions must be taken to avoid the increased risk of fire and its spread.

12. Precautions for withdrawal of workers

So that they can withdraw in safety, workers must, where necessary, be provided with self-rescue respiratory protection devices which they must always keep within their reach.

Workers must be trained in the use of these devices.

These devices must remain at the site and be checked regularly to ensure that they are in good condition.

13. Lighting

The provisions of section 13 of Part A are replaced as follows:

- Workers must be provided with a suitable personal lamp.
- Workstations must as far as possible be equipped with artificial lighting adequate for the protection of workers' safety and health.
- Lighting installations must be placed in such a way that there is no risk of accident to workers as a result of the type of lighting fitted.

14. Underground workforce accounting

It must be possible to know exactly who is under ground at any time.

15. Rescue organization

In order to enable suitable action to be taken rapidly and effectively in the event of a major incident, an adequate rescue organization must be set up.

The rescue organization must, in order to be able to act at any site where underground extraction or exploratory workings are in progress, have sufficient trained rescue workers and adequate rescue equipment at its disposal.

COUNCIL DECISION

of 14 December 1992

concerning the conclusion of a trade and cooperation agreement between the European Economic Community and Macao

(92/605/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 113 and 235 thereof,

Having regard to the proposal from the Commission,

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

Whereas the Agreement for trade and cooperation between the European Economic Community and Macao should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement for trade and cooperation between the European Economic Community and Macao is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall give the notification provided for in Article 19 of the Agreement ⁽²⁾.

Article 3

The Commission, assisted by representatives of the Member States, shall represent the Community in the Joint Committee set up by Article 16 of the Agreement.

Article 4

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Luxembourg, 14 December 1992.

For the Council

The President

N. LAMONT

⁽¹⁾ OJ No C 337, 21. 12. 1992.

⁽²⁾ See page 32 of this Official Journal.

AGREEMENT

for trade and cooperation between the European Economic Community and Macao

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

of the one part

and

THE GOVERNMENT OF MACAO,

of the other part,

CONSIDERING that the European Economic Community, hereinafter referred to as the 'Community' and Macao wish to develop, extend and deepen economic and trade relations between them;

CONSIDERING that it would be timely to reinforce existing links between the parties by means of cooperation between Macao and the Community in matters of mutual interest;

REAFFIRMING the importance they attach to democratic values and to respecting human rights;

DECLARING that the basic aim of this Agreement shall be to consolidate, intensify and diversify relations between the Parties, to the benefit of both;

DESIROUS of stepping up and diversifying trade and actively developing cooperation in an evolutionary and pragmatic manner;

CONVINCED of the importance of the rules and principles of the General Agreement on Tariffs and Trade (GATT) for the purposes of open and continually expanding international trade, and reaffirming their commitments under that Agreement,

HAVE AGREED AS FOLLOWS:

Article 1

Basis for cooperation

The two parties undertake to strengthen their relations and resolve to promote cooperation between them, taking account of Macao's special situation and of its level of development.

Cooperation between the Community and Macao and the implementation of this Agreement are based on respect for the democratic principles and human rights which inspire the policies of both the Community and Macao.

CHAPTER I

TRADE COOPERATION

Article 2

1. The Contracting Parties reaffirm their reciprocal commitments under the terms of the General Agreement on Tariffs and Trade (GATT) and shall accord each other most-favoured-nation treatment in all trade matters regarding:

- (a) customs duties and charges of any kind imposed on or in connection with imports, exports, re-exports or transit of goods, including the method of levying such duties and charges;

- (b) methods of payment and the transfer of such payments;

- (c) rules and regulations, procedures and the formalities connected with imports and exports, including provisions relating to customs clearance, transit, warehousing and transshipment of imports or exports;

- (d) administrative formalities relating to import and export licences;

- (e) taxes and other internal charges levied directly or indirectly on imported or exported goods and services;

- (f) laws, rules and regulations and requirements relating to the sale, offering for sale, purchase, transportation, distribution and use of goods on the domestic market.

2. In accordance with the GATT, this treatment shall not apply to:

- (a) advantages accorded by one of the two Contracting Parties with the aim of creating a customs union or a free-trade area or pursuant to the creation of such a union or area;

- (b) other advantages accorded under the GATT.

Article 3

The Contracting Parties undertake to promote trade between them to the greatest possible degree, taking into account their respective economic situations and granting each other the widest possible opportunities.

CHAPTER II

OTHER FIELDS OF COOPERATION

Article 4

With the particular aims of bringing about the development of their economies and standards of living, diversifying their links with each other, encouraging scientific and technological progress, opening up new sources of supply and new markets, promoting investment, protecting the environment and improving living condition, the Contracting Parties agree to develop cooperation, within the bounds of their respective powers and on the basis of mutual interest, in all areas in which they have responsibility for policy, notably the following:

- industry,
- trade,
- science and technology,
- energy,
- transport,
- telecommunications,
- data-processing,
- intellectual and industrial property, standards and specifications,
- protection of the environment,
- social development,
- tourism,
- financial services,
- fisheries,
- customs matters,
- statistics.

*Article 5***Industrial cooperation**

The Contracting Parties shall encourage the use of the various forms of industrial and technical cooperation to benefit their firms and entities, within the bounds of the needs and capabilities of the Parties.

With the aims of the Agreement in mind, the Contracting Parties shall endeavour to facilitate and promote the following, *inter alia*:

- the establishment of joint ventures,
- the transfer of technology,
- cooperation between financial institutions,
- measures such as visits, contacts and activities to promote cooperation between persons and delegations representing firms or economic organizations,
- the organization of seminars and symposia.

Article 6

The Contracting Parties shall promote the development and diversification of Macao's production base in industry and services, in particular by targeting cooperation activities at small and medium-sized enterprises and by encouraging steps to facilitate access on the part of such enterprises to sources of capital, markets and appropriate technology. Such measures could include the joint establishment of suitable mechanisms and institutions.

*Article 7***Investment**

The Contracting Parties agree:

- (a) to promote an increase in mutually beneficial investment, within the limits of their responsibilities, rules and policies;
- (b) to improve the climate for investment on both sides, notably by means of agreements between the Community Member States and Macao for the protection and promotion of investment, on a basis of non-discrimination and reciprocity.

*Article 8***Cooperation in science and technology**

Taking into account their mutual interest and the objectives of their development strategies, the Contracting Parties shall undertake to promote cooperation in science and technology in such a manner as to improve Macao's potential for development.

*Article 9***Cooperation in the field of information, communication and culture**

The Contracting Parties shall establish cooperation in the field of information and communication, taking account of the cultural dimension of relations between them. Such cooperation could include conservation of objects of historic and cultural interest.

*Article 10***Training**

1. Cooperation under this Agreement shall include appropriate provision for training. The Contracting Parties shall furthermore implement individual training programmes in areas of mutual interest.

2. The measures concerned shall be targeted first and foremost at teachers, trainers and executive personnel in positions of responsibility in firms, government, public services and other educational, economic and social entities. They could include promotion of cooperation agreements between institutions of higher education and training in Europe and in Macao, notably with regard to science, technology and vocational training.

*Article 11***Cooperation in the field of the environment**

The Contracting Parties shall undertake to cooperate in the field of environmental protection, particularly with regard to legislation and standards, research, training, technical assistance, the implementation of environmental improvement projects and the organization of seminars and meetings in this field.

*Article 12***Cooperation in the field of social development**

1. The Contracting Parties shall establish cooperation in the field of social development in Macao in order to improve the standard of living and quality of life of the most disadvantaged sections of the population.

2. Measures to attain this aim could include technical assistance concentrating on vocational training, the administration and improvement of social services, job creation, improvement of housing and preventive medicine.

*Article 13***Cooperation in the fight against drugs**

Within the bounds of their respective powers, the Contracting Parties undertake to coordinate and intensify their efforts to prevent and reduce the production, trafficking and consumption of drugs. They shall exchange relevant information in this regard.

*Article 14***Cooperation in the field of tourism**

Within the bounds of their legislation, the Contracting Parties shall encourage cooperation in Macao's tourist

industry through targeted action, notably the development of promotion, an exchange of information and statistics, exchanges of experts and training focused on a transfer of technology and improved administration in the industry.

*Article 15***Resources for undertaking cooperation**

In order to facilitate the achievement of the aims set out in this Agreement, the Contracting Parties shall make available, within the limits of their abilities and through their own channels, the appropriate resources, including financial resources.

CHAPTER III

JOINT COMMITTEE

Article 16

1. The Contracting Parties shall establish under this Agreement a Joint Committee consisting of representatives of the Community, on the one hand, and representatives of Macao, on the other.

The role of the Joint Committee shall be to promote cooperation as proposed by the Contracting Parties, and in particular:

- to oversee and verify the functioning of this Agreement,
- to study the development of trade and cooperation,
- to propose measures of forestalling problems which might arise in areas covered by the Agreement,
- to propose measures suitable for the development and diversification of trade and cooperation,
- to exchange opinions and make suggestions on any issue of common interest within the fields covered by this Agreement.

2. The Joint Committee shall meet at least once a year, in Brussels and Macao alternately. Special meetings may be convened by mutual agreement, at the request of either Contracting Party.

3. The Joint Committee shall adopt its own rules of procedure and programme of work. The agenda for meetings of the Joint Committee shall be determined by agreement between the Parties.

CHAPTER IV
FINAL PROVISIONS

Article 17

Without prejudice to the provisions of the Treaties establishing the European Communities, neither this Agreement nor any action taken under it shall in any way affect the powers of the Member States of the Communities to undertake bilateral activities with Macao in the field of economic cooperation or where appropriate to conclude new economic cooperation agreements with Macao.

Article 18

Territorial application

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of Macao.

Article 19

Entry into force and duration

1. This Agreement shall enter into force on the first day of the month following the date on which the Contracting Parties have notified each other of the completion of the procedures necessary for this purpose.

2. This Agreement is concluded for a period of five years. It shall be renewed tacitly on a yearly basis unless one of the Contracting Parties denounces it to the other Party in writing six months before the date of expiry.

Article 20

Authentic texts

This Agreement is drawn up in duplicate in the Danish, Dutch, English, French, German, Greek, Italian, Portuguese, Spanish and Chinese languages, each text being equally authentic.

Article 21

Future developments

1. The Contracting Parties may by mutual consent expand this Agreement with a view to enhancing the levels of cooperation and supplementing them, within the bounds of their respective laws, by means of agreements on specific sectors or activities.

2. With regard to the implementation of this Agreement, either of the Contracting Parties may put forward suggestions for widening and strengthening mutual cooperation, taking into account the experience gained in its application.

Hecho en Luxemburgo, el quince de junio de mil novecientos noventa y dos.

Udfærdiget i Luxembourg, den femtende juni nitten hundrede og tooghalvfems.

Geschehen zu Luxemburg am fünfzehnten Juni neunzehnhundertzweiundneunzig.

Έγινε στο Λουξεμβούργο, στις δέκα πέντε Ιουνίου χίλια εννιακόσια εννενήντα δύο.

Done at Luxembourg on the fifteenth day of June in the year one thousand nine hundred and ninety-two.

Fait à Luxembourg, le quinze juin mil neuf cent quatre-vingt-douze.

Fatto a Lussemburgo, addì quindici giugno millenovecentonovantadue.

Gedaan te Luxemburg, de vijftiende juni negentienhonderd tweeënnegentig.

Feito no Luxemburgo, em quinze de Junho de mil novecentos e noventa e dois.

一九九二年六月十五日在盧森堡簽訂

Por el Consejo de las Comunidades Europeas

For Rådet for De Europæiske Fællesskaber

Für den Rat der Europäischen Gemeinschaften

Για το Συμβούλιο των Ευρωπαϊκών Κοινοτήτων

For the Council of the European Communities

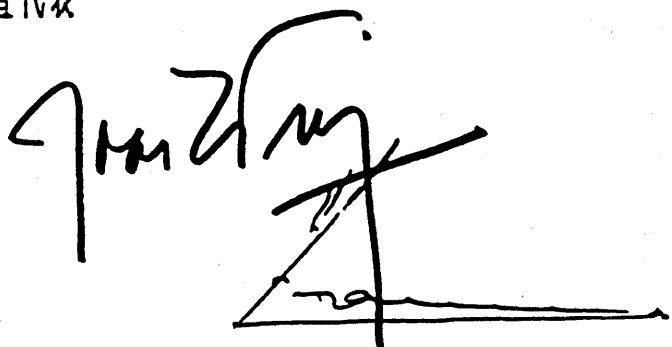
Pour le Conseil des Communautés européennes

Per il Consiglio delle Comunità europee

Voor de Raad van de Europese Gemeenschappen

Pelo Conselho das Comunidades Europeias

歐洲共同體理事會代表



Por Macao

For Macao

Für Macau

Για το Μακάο

For Macao

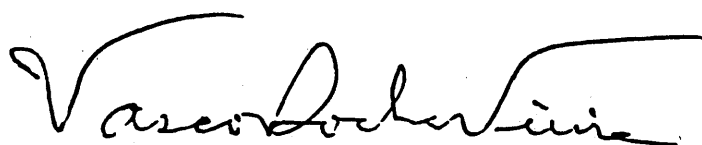
Pour Macao

Per Macao

Voor Macao

Por Macau

澳門代表



Information on the date of entry into force of the trade and cooperation agreement between the European Economic Community and Macao

Notification of completion of the procedures necessary for the entry into force of the Agreement for trade and cooperation between the European Economic Community and Macao, signed in Brussels on 15 June 1992, having been given on 15 December 1992, the Agreement will enter into force on 1 January 1993 in accordance with Article 19 (1) thereof.
