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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other Acts are printed in bold type and preceded by an asterisk.

I

(Acts whose publication is obligatory)

COUNCIL DIRECTIVE 96/96/EC

of 20 December 1996

on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75 thereof,

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

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

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

(1) Whereas Council Directive 77/143/EEC of 29 December 1976 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers ⁽⁴⁾ has been substantially amended on a number of occasions; whereas, now that it is to be further amended, the Directive should, for reasons of clarity, be consolidated into a single text;

(2) Whereas, within the framework of the common transport policy, certain road traffic within the Community should operate under the most favourable circumstances as regards both safety and competitive conditions applying to carriers in the Member States;

(3) Whereas the growth of road traffic and the resultant increase in danger and nuisances present all Member States with safety problems of a similar nature and seriousness;

(4) Whereas the present standards and methods of testing vary from one Member State to another and this situation affects the equivalence of safety and environmental performance levels of tested vehicles operating in the Member States; whereas, moreover, this state of affairs is likely to disturb the conditions governing competition between transport undertakings of the various Member States;

(5) Whereas it is therefore necessary to harmonize as far as is practicable the frequency of tests and the compulsory items to be tested;

(6) Whereas testing during the life cycle of a vehicle should be relatively simple, quick and inexpensive;

(7) Whereas the minimum Community standards and methods to be used for testing the items listed in Annex II should therefore be defined in separate Directives;

(8) Whereas, as a transitional measure, national standards remain applicable in respect of items not covered by separate Directives;

(9) Whereas it is necessary to adapt rapidly to technical progress the standards and methods laid down in the separate Directives and, in order to facilitate implementation of the measures required for this purpose, to establish a procedure for close cooperation between the Member States and the Commission within a committee on the adaptation to technical progress of roadworthiness tests;

(10) Whereas with regard to braking systems it would be premature to set values for air pressure settings and build-up times, etc., given the variance in the equipment and methods within the Community;

⁽¹⁾ OJ No C 193, 4. 7. 1996, p. 5 and 31.

⁽²⁾ OJ No C 39, 12. 2. 1996, p. 24.

⁽³⁾ European Parliament opinion of 29 February 1996 (OJ No C 78, 18. 3. 1996, p. 27), Council common position of 18 June 1996 (OJ No C 248, 26. 8. 1996, p. 49) and European Parliament Decision of 24 October 1996 (OJ No C 347, 18. 11. 1996).

⁽⁴⁾ OJ No L 47, 18. 2. 1977, p. 47. Directive as last amended by Commission Directive 94/23/EC (OJ No L 147, 14. 6. 1994, p. 6).

- (11) Whereas it is the intention to amend this Directive further so as to include a harmonious and improved test methodology;
- (12) Whereas, until such time as there are harmonized test procedures and practices, Member States may use their judgment as to the test procedure they use to establish whether the vehicles in question meet the braking requirements;
- (13) Whereas each Member State must ensure, within its own area of jurisdiction, that roadworthiness tests are conducted methodically and to a high standard;
- (14) Whereas the Commission should verify the practical application of this Directive and report to the European Parliament and the Council at regular intervals on its findings;
- (15) Whereas it is recognized by all concerned with vehicle testing that the method of testing and, in particular, whether the vehicle is tested in a laden, part-laden or unladen condition, can influence the degree of confidence testers have as to the roadworthiness of the braking system;
- (16) Whereas the prescription of brake force reference values for various laden conditions for each vehicle model would help restore that confidence; whereas this Directive enables testing under this regime as an alternative to testing against minimum performance values for each vehicle category;
- (17) Whereas with regard to braking systems the scope of this Directive relates in the main to vehicles which have been granted component type-approval in accordance with Directive 71/320/EEC ⁽¹⁾ although it is recognized that certain types of vehicle have been granted such approval in accordance with national standards which may differ from the requirements of this Directive;
- (18) Whereas Member States may extend the scope of the braking test to include vehicles or test items outside the scope of this Directive;
- (19) Whereas Member States may make the braking test more stringent or increase the frequency of testing;
- (20) Whereas this Directive is intended to maintain emissions at a low level throughout the useful life of a vehicle by means of regular exhaust emission tests and to ensure that vehicles which are major polluters are withdrawn from service until they are brought to a proper state of maintenance;
- (21) Whereas bad tuning and inadequate maintenance are detrimental not only to the engine but also to the environment since they cause increased pollution and fuel consumption; whereas it is important that environment-friendly transport be developed;
- (22) Whereas in the case of compression-ignition (diesel) engines measurement of the opacity of the exhaust fumes is deemed to be an adequate indicator of the condition of the vehicle's state of maintenance, with regard to emissions;
- (23) Whereas for positive-ignition (petrol) engines measurement of carbon monoxide emissions from the exhaust pipe when the engine is idling is deemed to be an adequate indicator of the vehicle's state of maintenance, with regard to emissions;
- (24) Whereas the failure rate in exhaust-emission tests for vehicles which have not been regularly maintained may well be high;
- (25) Whereas in the case of petrol-engined vehicles for which the type-approval standards specify that they must be equipped with advanced emission control systems such as three-way catalytic converters which are lambda-probe controlled, the regular emission test standards must be more stringent than for conventional vehicles;
- (26) Whereas Member States may, if appropriate, exclude from the scope of this Directive certain vehicles that are considered to be of historic interest; whereas they may also establish their own testing standards for such vehicles; whereas, however, such a right must not lead to the application of stricter standards than those which the vehicles concerned were originally designed to meet;
- (27) Whereas it must be possible to adapt this Directive from time to time to take account of developments in vehicle construction which facilitate in-service testing and in test methods which reflect more closely the actual conditions in which a vehicle is used;
- (28) Whereas Council Directive 92/6/EEC ⁽²⁾ requires the installation and use of speed limitation devices in certain categories of road vehicles;

⁽¹⁾ Council Directive 71/320/EEC of 26 July 1971 on the approximation of the laws of the Member States relating to the braking devices of certain categories of motor vehicles and their trailers (OJ No L 202, 6. 9. 1971, p. 37). Directive as last amended by Directive 91/422/EEC (OJ No L 233, 22. 8. 1991, p. 21).

⁽²⁾ Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (OJ No L 57, 2. 3. 1992, p. 27).

- (29) Whereas pending developments in the technology of speed-limitation devices which would make it easier to monitor them, certain parts of such devices may nevertheless already undergo a series of checks at the roadworthiness test where this is possible;
- (30) Whereas the correct functioning of speed limitation devices is currently left to Member States to determine using whatever means they consider to be appropriate; whereas it is the intention to harmonize the test methods and standards in due course;
- (31) Whereas the Commission should assess in-service checks on the correct functioning of speed-limitation devices and submit a report to the Council; whereas the conclusions of that report will form the basis of any further proposals for changes in the rules applicable to speed-limitation devices;
- (32) Whereas technical requirements relating to taxis and ambulances are similar to those for private cars; whereas the items to be checked may therefore be similar, although the frequency of tests is different;
- (33) Whereas in view of the expected impact of this Directive on the sector in question and in the light of the principle of subsidiarity, the Community measures provided for in this Directive are necessary to achieve harmonization of the rules on roadworthiness tests, to prevent distortion of competition between road hauliers and to guarantee that vehicles are properly checked and maintained; whereas these aims could not be achieved in full by the Member States acting individually;
- (34) Whereas this Directive makes no difference to the obligations of the Member States concerning the deadlines for transposition into national law and for implementation of the Directives which have been repealed,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

General provisions

Article 1

1. In each Member State, motor vehicles registered in that State and their trailers and semi-trailers shall undergo

periodic roadworthiness tests in accordance with this Directive and in particular its Annexes I and II.

2. The categories of vehicles to be tested, the frequency of the roadworthiness tests and the items which must be tested are listed in Annexes I and II.

Article 2

The roadworthiness tests provided for in this Directive shall be carried out by the State, or by a public body entrusted with the task by the State or by bodies or establishments designated and directly supervised by the State, including duly authorized private bodies. In particular, when establishments designated as vehicle testing centres also perform motor vehicle repairs, Member States shall make every effort to ensure the objectivity and high quality of the vehicle testing.

Article 3

1. Member States shall take such measures as they deem necessary to make it possible to prove that a vehicle has passed a roadworthiness test complying with at least the provisions of this Directive.

These measures shall be notified to the other Member States and to the Commission.

2. Each Member State shall, on the same basis as if it had itself issued the proof, recognize the proof issued in another Member State showing that a motor vehicle registered on the territory of that other State, together with its trailer or semi-trailer, have passed a roadworthiness test complying with at least the provisions of this Directive.

3. Member States shall apply suitable procedures to establish, as far as practicable, that the brake performance of the vehicles registered in their territory meets the requirements specified in this Directive.

CHAPTER II

Exceptions and derogations

Article 4

1. Member States shall have the right to exclude from the scope of this Directive vehicles belonging to the armed forces, the forces of law and order and the fire service.

2. Member States may, after consulting the Commission, exclude from the scope of this Directive or subject to

special provisions, certain vehicles operated or used in exceptional conditions and vehicles which are never, or hardly ever, used on public highways, including vehicles of historic interest manufactured before 1 January 1960 or which are temporarily withdrawn from circulation.

3. Member States may, after consulting the Commission, set their own testing standards for vehicles considered to be of historic interest.

Article 5

Notwithstanding the provisions of Annexes I and II, Member States may:

- bring forward the date for the first compulsory roadworthiness test and, where appropriate, submit the vehicle for testing prior to registration,
- shorten the interval between two successive compulsory tests,
- make the testing of optional equipment compulsory,
- increase the number of items to be tested,
- extend the periodic test requirement to other categories of vehicles,
- prescribe special additional tests,
- require for vehicles registered on their territory higher minimum standards for braking efficiency than those specified in Annex II and may include a test on vehicles with heavier loads provided such requirements do not exceed those of the vehicle's original type-approval.

Article 6

1. By way of derogation from the provisions of Annexes I and II, and until 1 January 1993, Member States may:

- postpone the date of the first compulsory roadworthiness test,
- extend the interval between two successive compulsory roadworthiness tests,
- reduce the number of items to be tested,
- amend the categories of vehicles subject to compulsory roadworthiness tests,

provided that all the light commercial vehicles referred to in section 5 of Annex I are required to undergo roadworthiness tests in accordance with this Directive before that date.

However, in Member States where there was no system of regular roadworthiness testing comparable to that

intended by this Directive for this category of vehicles as at 28 July 1988, paragraph 1 shall apply until 1 January 1995.

2. With regard to the private cars referred to in section 6 of Annex I, paragraph 1 shall apply until 1 January 1994.

However, in Member States where there was no system of regular roadworthiness testing comparable to that intended by this Directive for this category of vehicles as at 31 December 1991, paragraph 1 shall apply until 1 January 1998.

CHAPTER III

Final provisions

Article 7

1. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt the separate Directives necessary to define the minimum standards and methods for testing the items listed in Annex II.

2. Any amendments which are necessary to adapt the standards and methods defined in the separate Directives to technical progress shall be adopted in accordance with the procedure laid down in Article 8.

Article 8

1. The Commission shall be assisted by a committee on the adaptation to technical progress of the Directive on roadworthiness tests for motor vehicles and their trailers, hereinafter referred to as the 'Committee', which shall consist of representatives of the Member States with a representative of the Commission in the chair.

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

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

4. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

- (b) If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

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

Article 9

1. The Commission shall, no later than 31 December 1998, submit a report to the Council on the implementation of roadworthiness testing of private cars, accompanied by any proposal deemed necessary, with particular reference to the frequency and content of tests.

2. No later than three years after the introduction of regular testing of speed limitation devices, the Commission shall examine whether, on the basis of the experience gained, the tests laid down are sufficient to detect defective or manipulated speed limitation devices or whether the rules need to be amended.

Article 10

The Directives listed in Annex III, Part A are hereby repealed as from the date indicated in Article 11, without prejudice to the obligations of the Member States concerning the deadlines for transposition and implementation set out in Annex III, Part B.

References to the repealed Directives shall be construed as reference to this Directive and should be read in accordance with the correlation tables set out in Annex IV.

Article 11

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 9 March 1998. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, they shall contain a reference to this Directive or be accompanied by such reference at the time of their official publication. The methods of making such reference shall be laid down by Member States.

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

3. Member States shall adopt the measures necessary to implement the system of tests laid down in this Directive. The measures adopted must be effective, proportionate and dissuasive.

Article 12

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

Article 13

This Directive is addressed to the Member States.

Done at Brussels, 20 December 1996.

For the Council

The President

S. BARRETT

ANNEX I

CATEGORIES OF VEHICLES SUBJECT TO ROADWORTHINESS TESTS AND FREQUENCY OF THE TESTS

Categories of vehicle	Frequency of tests
1. Motor vehicles used for the carriage of passengers and with more than eight seats, excluding the driver's seat	One year after the date on which the vehicle was first used, and thereafter annually
2. Motor vehicles used for the carriage of goods and having a maximum permissible mass exceeding 3 500 kg	One year after the date on which the vehicle was first used, and thereafter annually
3. Trailers and semi-trailers with a maximum permissible mass exceeding 3 500 kg	One year after the date on which the vehicle was first used, and thereafter annually
4. Taxis, ambulances	One year after the date on which the vehicle was first used, and thereafter annually
5. Motor vehicles having at least four wheels, normally used for the road carriage of goods and with a maximum permissible mass not exceeding 3 500 kg, excluding agricultural tractors and machinery	Four years after the date on which the vehicle was first used, and thereafter every two years
6. Motor vehicles having at least four wheels, used for the carriage of passengers and with not more than eight seats excluding the driver's seat	Four years after the date on which the vehicle was first registered, and thereafter every two years

ANNEX II

ITEMS TO BE COMPULSORILY TESTED

The test must cover at least the items listed below, provided that these are related to the obligatory equipment of the vehicle being tested in the Member State concerned.

The tests covered by this Annex may be carried out visually without disassembly of vehicle parts.

Where the vehicle is found to be defective with regard to the test items below, the competent authorities in the Member States must adopt a procedure for setting the conditions under which the vehicle may be used before passing another roadworthiness test.

VEHICLES IN CATEGORIES 1, 2, 3, 4, 5 AND 6

1. Braking systems

The following items are to be included in the roadworthiness test of vehicle braking systems. The test results achieved during the checks on the braking systems must be equivalent as far as is practicable to the technical requirements of Directive 71/320/EEC ⁽¹⁾.

<i>Items to be checked/tested</i>	<i>Reasons for failure</i>
1.1. Mechanical condition and operation	
1.1.1. Footbrake pedal pivot	— too tight — bearing worn — excessive wear/play
1.1.2. Pedal condition and travel of the brake operating device	— excessive or insufficient reserve travel — brake control not releasing correctly — anti-slip provision on brake pedal missing, loose or worn smooth
1.1.3. Vacuum pump or compressor and reservoirs	— time taken to build up air pressure/vacuum for the effective operation of the brakes is excessive — insufficient air pressure/vacuum to give assistance for at least two applications of the brake after the warning device has operated (or gauge shows unsafe reading) — air leak causing a noticeable drop in pressure or audible air leaks
1.1.4. Low pressure warning indicator or gauge	— malfunctioning or defective low pressure indicator/air pressure gauge

⁽¹⁾ Council Directive 71/320/EEC of 26 July 1971 on the approximation of the laws of the Member States relating to the braking devices of certain categories of motor vehicles and their trailers (OJ No L 202, 6. 9. 1971, p. 37). Directive as last amended by Directive 91/422/EEC (OJ No L 233, 22. 8. 1991, p. 21).

<i>Items to be checked/tested</i>	<i>Reasons for failure</i>
1.1.5. Hand-operated brake control valve	— cracked or damaged control, excessive wear — malfunction of control valve — control insecure on valve spindle or valve unit insecure — connections loose or leak in system — unsatisfactory operation
1.1.6. Parking brake, lever control, parking brake ratchet	— parking brake ratchet not holding correctly — excessive wear at lever pivot or ratchet mechanism — excessive movement of lever indicating incorrect adjustment
1.1.7. Braking valves (footvalves, unloaders, governors, etc.)	— damaged, excessive air leakage — excessive discharge of oil from compressor — insecure/inadequate mounting — discharge of hydraulic brake fluid
1.1.8. Couplings for trailer brakes	— defective isolation taps or self-sealing valve — insecure/inadequate mounting — excessive leaks
1.1.9. Energy storage reservoir pressure tank	— damaged, corroded, leaking — drain device inoperative — insecure/inadequate mounting
1.1.10. Brake servo units, master cylinder (hydraulic systems)	— servo unit is defective or ineffective — master cylinder defective or leaking — master cylinder insecure — insufficient quantity of brake fluid — master cylinder reservoir cap missing — brake fluid warning lamp illuminated or defective — incorrect functioning of brake fluid level warning device
1.1.11. Rigid brake pipes	— risk of failure or fracture — leaks from pipes or connections to coupling — damaged or excessively corroded — misplaced
1.1.12. Flexible brake hoses	— risk of failure or fracture — damaged, chafing, brake hoses too short, twisted — leaks from hoses or couplings — hose bulging under pressure — porosity
1.1.13. Brake coverings (lining pads)	— excessive wear — contaminated (oil, grease, etc.)

<i>Items to be checked/tested</i>	<i>Reasons for failure</i>
1.1.14. Brake drums, brake discs	— excessive wear, excessive scoring, cracks, insecure or fractured — contaminated (oil, grease, etc.) — back plate insecure
1.1.15. Brake cables, rods, levers linkage	— cables damaged, knotted — excessively worn or corroded — cable or rod joint insecure — cable guide defective — any restriction to free movement of the braking system — any abnormal movement of levers/rods/linkage indicating maladjustment or excessive wear
1.1.16. Brake actuators (including spring brakes or hydraulic wheel cylinders)	— cracked or damaged — leaking — insecure/inadequate mounting — excessively corroded — excessive travel of operating piston or diaphragm mechanism — dust protection cover missing or excessively damaged
1.1.17. Load sensing valve	— defective linkage — incorrect adjustment — seized, not working — missing
1.1.18. Automatic slack adjusters indicating	— seized or abnormal movement, excessive wear or wrong adjustment — defective
1.1.19. Retarder system (where fitted or required)	— insecure connectors or mountings — defective
1.2. Service brake performance and efficiency	
1.2.1. Performance (progressively increased to maximum effort)	— inadequate braking effort on one or more wheels — braking effort from any wheel is less than 70 % of the highest recorded effort from another wheel on the same axle. In the case of brake testing on the road, the vehicle's deviation from a straight line is excessive — no gradual variation of brake effort (grabbing) — abnormal time lag in brake operation at any wheel — excessive fluctuation of brake effort due to distorted discs or oval drums

<i>Items to be checked/tested</i>	<i>Reasons for failure</i>
1.2.2. Efficiency	— a braking ratio which relates to the maximum authorized mass or, in the case of semi-trailers, to the sum of the authorized axle loads where practicable, less than the following: - minimum braking efficiency - category 1: 50 % ⁽¹⁾ - category 2: 43 % ⁽²⁾ - category 3: 40 % ⁽³⁾ - category 4: 50 % - category 5: 45 % ⁽⁴⁾ - category 6: 50 % — or — a braking effort less than the reference values if specified by the vehicle manufacturer for the vehicle axle ⁽⁵⁾
1.3. Secondary (emergency) brake performance and efficiency (if met by separate system)	
1.3.1. Performance	— brake inoperative on one side — braking effort from any wheel is less than 70 % of the highest recorded effort from another wheel on the same axle — no gradual variation of efficiency (grabbing) — automatic brake system not working in the case of trailers
1.3.2. Efficiency	— for all vehicle categories, a braking ratio less than 50 % ⁽⁶⁾ of the service brake performance defined in 1.2.2 in relation to the maximum authorized mass or, in the case of semi-trailers, to the sum of the authorized axle loads
1.4. Parking brake performance and efficiency	
1.4.1. Performance	— brake inoperative on one side
1.4.2. Efficiency	— for all vehicle categories, a braking ratio less than 16 % in relation to the maximum authorized mass, or, for motor vehicles, less than 12 % in relation to the maximum authorized combination mass of the vehicle, whichever is greater
1.5. Retarder or exhaust brake system performance	— no gradual variation of efficiency (retarder) — defective
1.6. Anti-lock braking	— malfunction of the anti-lock warning device — defective

⁽¹⁾ 48 % for category 1 vehicles not fitted with ABS, or type-approved before 1 October 1991 (date of prohibition of first putting into circulation without EC component type-approval) (Directive 71/320/EEC, as amended by Commission Directive 88/194/EEC, OJ No L 92, 9. 4. 1988, p. 47).

⁽²⁾ 45 % for vehicles registered after 1988 or from the date of application of Directive 71/320/EEC, as amended by Commission Directive 85/647/EEC (OJ No L 380, 31. 12. 1985, p. 1), under Member States' national legislation, whichever is the later.

⁽³⁾ 43 % for semi-trailers and draw-bar trailers registered after 1988 or from the date of application of Directive 71/320/EEC, as amended by Commission Directive 85/647/EEC, under Member States' national legislation, whichever is the later.

⁽⁴⁾ 50 % for category 5 vehicles registered after 1988 or from the date of application of Directive 71/320/EEC, as amended by Commission Directive 85/647/EEC, under Member States' national legislation, whichever is the later.

⁽⁵⁾ The reference value for the vehicle axle is the braking effort (expressed in newtons) necessary to achieve this minimum prescribed braking force at the particular weight that the vehicle is presented.

⁽⁶⁾ For categories 2 and 5 vehicles the minimum secondary brake performance must be 2,2 m/s² (as the secondary brake performance was not covered by Directive 71/320/EEC, as amended by Commission Directive 85/647/EEC).

VEHICLES IN CATEGORIES 1, 2 AND 3	VEHICLES IN CATEGORIES 4, 5 AND 6
2. Steering and steering wheel	2. Steering
2.1. Mechanical condition 2.2. Steering wheel 2.3. Steering play 2.4. Wheel bearings	2.1. Mechanical condition 2.2. Steering play 2.3. Steering system attachment
3. Visibility	3. Visibility
3.1. Field of vision 3.2. Condition of glass 3.3. Rear-view mirrors 3.4. Windscreen wipers 3.5. Screenwashers	3.1. Field of vision 3.2. Condition of glass 3.3. Rear-view mirrors 3.4. Windscreen wipers 3.5. Screenwashers
4. Lamps, reflectors and electrical equipment	4. Lighting equipment
4.1. Main and dipped-beam headlamps 4.1.1. Condition and operation 4.1.2. Alignment 4.1.3. Switches 4.1.4. Visual efficiency	4.1. Main and dipped-beam headlamps 4.1.1. Condition and operation 4.1.2. Alignment 4.1.3. Switches
4.2. Side lamps and end-outline marker lamps 4.2.1. Condition and operation 4.2.2. Colour and visual efficiency	4.2. Condition and operation, condition of lenses, colour and visual efficiency of: 4.2.1. Side and rear lamps 4.2.2. Stop lamps 4.2.3. Direction-indicator lamps 4.2.4. Reserving lamps 4.2.5. Fog lamps 4.2.6. Rear registration plate lamps 4.2.7. Retro reflectors 4.2.8. Hazard warning lamps
4.3. Stop lamps 4.3.1. Condition and operation 4.3.2. Colour and visual efficiency	
4.4. Direction-indicator lamps 4.4.1. Condition and operation 4.4.2. Colour and visual efficiency 4.4.3. Switches 4.4.4. Flashing frequency	
4.5. Front and rear fog lamps 4.5.1. Position 4.5.2. Condition and operation 4.5.3. Colour and visual efficiency	

VEHICLES IN CATEGORIES 1, 2 AND 3	VEHICLES IN CATEGORIES 4, 5 AND 6
4.6. Reversing lamps	
4.6.1. Condition and operation	
4.6.2. Colour and visual efficiency	
4.7. Rear registration plate lamp	
4.8. Retro reflectors — condition and colour	
4.9. Telltales	
4.10. Electrical connections between drawing vehicle and trailer or semi-trailer	
4.11. Electrical wiring	
5. Axles, wheels, tyres, suspension	5. Axles, wheels, tyres, suspension
5.1. Axles	5.1. Axles
5.2. Wheels and tyres	5.2. Wheels and tyres
5.3. Suspension	5.3. Suspension
6. Chassis and chassis attachments	6. Chassis and chassis attachments
6.1. Chassis or frame and attachments	6.1. Chassis or frame and attachments
6.1.1. General condition	6.1.1. General condition
6.1.2. Exhaust pipes and silencers	6.1.2. Exhaust pipes and silencers
6.1.3. Fuel tank or pipes	6.1.3. Fuel tank or pipes
6.1.4. Geometric properties and condition of rear protective device, heavy lorries	6.1.4. Spare-wheel carrier
6.1.5. Spare-wheel carrier	6.1.5. Security of coupling mechanism (if fitted)
6.1.6. Coupling mechanism on drawing vehicles, trailers and semi-trailers	
6.2. Cab and bodywork	6.2. Bodywork
6.2.1. General condition	6.2.1. Structural condition
6.2.2. Mounting	6.2.2. Doors and locks
6.2.3. Doors and locks	
6.2.4. Floor	
6.2.5. Driver's seat	
6.2.6. Running boards	
7. Other equipment	7. Other equipment
7.1. Safety belts	7.1. Mounting of driver's seat

VEHICLES IN CATEGORIES 1, 2 AND 3	VEHICLES IN CATEGORIES 4, 5 AND 6
7.2. Fire extinguisher	7.2. Mounting of battery
7.3. Locks and anti-theft device	7.3. Audible warning device
7.4. Warning triangle	7.4. Warning triangle
7.5. First-aid kit	7.5. Safety belts
7.5.1. Security of mountings	7.5.2. Condition of belts
7.5.3. Operation	
7.6. Wheel chock(s)	
7.7. Audible warning device	
7.8. Speedometer	
7.9. Tachograph (presence of, and integrity of seals) — check validity of tachograph plate if required by Regulation (EEC) No 3821/85 ⁽¹⁾ — check, if in doubt, whether the nominal circumference or size of tyre matches the data given on the tachograph plate — where practical, check that the seals of the tachograph and, where appropriate, any other means of protecting the connections against fraudulent manipulation are intact	
7.10. Speed limitation device — where possible, check whether speed limiter is fitted as required by Directive 92/6/EEC ⁽²⁾ — check validity of speed limiter plate — where practical, check that the seals of the speed limiter and, where appropriate, any other means of protecting the connections against fraudulent manipulation are intact	
8. Nuisance	8. Nuisance
8.1. Noise	8.1. Noise

⁽¹⁾ Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport (OJ No L 370, 31. 12. 1985, p. 8). As last amended by Commission Regulation (EC) No 2479/95 (OJ No L 256, 26. 10. 1995, p. 8).

⁽²⁾ Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (OJ No L 57, 2. 3. 1992, p. 27).

VEHICLES IN CATEGORIES 1, 2, 3, 4, 5 AND 6

8.2. Exhaust emissions

8.2.1. Motor vehicles equipped with positive-ignition (petrol) engines

(a) Where the exhaust emissions are not controlled by an advanced emission control system such as a three-way catalytic converter which is lambda-probe controlled:

1. Visual inspection of the exhaust system in order to check that there are no leakages.
2. If appropriate, visual inspection of the emission control system in order to check that the required equipment has been fitted.

After a reasonable period of engine conditioning (taking account of the vehicle manufacturer's recommendations) the carbon monoxide (CO) content of the exhaust gases is measured when the engine is idling (no load).

The maximum permissible CO content in the exhaust gases is that stated by the vehicle manufacturer. Where this information is not available or where Member States' competent authorities decide not to use it as a reference value, the CO content must not exceed the following:

- for vehicles registered or put into service for the first time between the date from which Member States required the vehicles to comply with Directive 70/220/EEC ⁽¹⁾ and 1 October 1986: CO — 4,5 % vol,
- for vehicles registered or put into service for the first time after 1 October 1986: CO — 3,5 % vol.

(b) Where the exhaust emissions are controlled by an advanced emission control system such as a three-way catalytic converter which is lambda-probe controlled:

1. Visual inspection of the exhaust system in order to check that there are no leakages and that all parts are complete.
2. Visual inspection of the emission control system in order to check that the required equipment has been fitted.
3. Determination of the efficiency of the vehicle's emission control system by measuring the lambda value and the CO content of the exhaust gases in accordance with section 4 or with the procedures proposed by the manufacturers and approved at the time of type-approval. For each of the tests the engine is conditioned in accordance with the vehicle manufacturer's recommendations.
4. Exhaust pipe emissions — limit values
 - Measurement at engine idling speed:

The maximum permissible CO content in the exhaust gases is that stated by the vehicle manufacturer. Where this information is not available, the maximum CO content must not exceed 0,5 % vol.
 - Measurement at high idle speed, engine speed to be at least 2 000 min⁻¹:

CO content: maximum 0,3 % vol

Lambda: $1 \pm 0,03$ in accordance with the manufacturer's specifications.

8.2.2. Motor vehicles equipped with compression ignition (diesel) engines

Measurement of exhaust gas opacity with free acceleration (no load from idling up to cut-off speed). The level of concentration must not exceed the level recorded on the plate pursuant to Directive 72/306/EEC ⁽²⁾. Where this information is not available or where Member States' competent authorities decide not to use it as a reference, the limit values of the coefficient of absorption are as follows:

Maximum coefficient of absorption for:

- naturally aspirated diesel engines = 2,5 m⁻¹,
- turbo-charged diesel engines = 3,0 m⁻¹

or equivalent values where use is made of equipment of a type different from that used for EC type-approval.

Vehicles registered or put into service for the first time before 1 January 1980 are exempted from these requirements.

8.2.3. Test equipment

Vehicle emissions are tested using equipment designed to establish accurately whether the limit values prescribed or indicated by the manufacturer have been complied with.

8.2.4. Where, during EC type-approval, a type of vehicle is found not to have satisfied the limit values laid down by this Directive, the Member States may lay down higher limit values for that type of vehicle on the basis of proof supplied by the manufacturer. They must forthwith inform the Commission thereof and it in turn must inform the other Member States.

⁽¹⁾ Council Directive 70/220/EEC of 20 March 1970 on the approximation of the laws of the Member States relating to measures to be taken against air pollution by emissions from motor vehicles (OJ No L 76, 9. 3. 1970, p. 1) and corrigendum (OJ No L 81, 11. 4. 1970, p. 15), as last amended by European Parliament and Council Directive 94/12/EC (OJ No L 100, 19. 4. 1994, p. 42).

⁽²⁾ Council Directive 72/306/EEC of 2 August 1972 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of pollutants from diesel engines for use in vehicles (OJ No L 190, 20. 8. 1972, p. 1), Directive as last amended by Commission Directive 89/491/EEC (OJ No L 238, 15. 8. 1989, p. 43).

VEHICLES IN CATEGORIES 1, 2 AND 3	VEHICLES IN CATEGORIES 4, 5 AND 6
8.3. Suppression of radio interference	
9. Supplementary tests for public transport vehicles	
9.1. Emergency exit(s) (including hammers for breaking windows), signs indicating emergency exit(s)	
9.2. Heating system	
9.3. Ventilation system	
9.4. Seat layout	
9.5. Interior lighting	
10. Vehicle identification	10. Vehicle identification
10.1. Registration plate	10.1. Registration plate
10.2. Chassis number	10.2. Chassis number

ANNEX III

PART A

Repealed Directives

(referred to in Article 10)

Council Directive 77/143/EEC of 29 December 1976 on the approximation of the laws of the Member states relating to roadworthiness tests for motor vehicles and their trailers and the Directives amending that Directive:

- Council Directive 88/449/EEC,
- Council Directive 91/225/EEC,
- Council Directive 91/328/EEC,
- Council Directive 92/54/EEC,
- Council Directive 92/55/EEC,
- Commission Directive 94/23/EC.

PART B

Directive	Deadlines	
	for transposition	for implementation
77/143/EEC (OJ No L 47, 18. 2. 1977, p. 47)	31 December 1977	31 December 1977
88/449/EEC (OJ No L 222, 12. 8. 1988, p. 10)	28 July 1990	28 July 1990
91/225/EEC (OJ No L 103, 23. 4. 1991, p. 3)	1 January 1992	1 January 1992
91/328/EEC (OJ No L 178, 6. 7. 1991, p. 29)	1 July 1993	1 July 1993
92/54/EEC (OJ No L 225, 10. 8. 1992, p. 63)	22 June 1993	22 June 1993
92/55/EEC (OJ No L 225, 10. 8. 1992, p. 68) for the vehicles referred to in section 8.2.1 (a) of Annex II: for the vehicles referred to in section 8.2.2 of Annex II: for the vehicles referred to in section 8.2.1 (b) of Annex II:	22 June 1993	1 January 1994 1 January 1996 1 January 1997
94/23/EC (OJ No L 147, 14. 6. 1994, p. 6)	1 January 1997	1 January 1997

ANNEX IV

CORRELATION TABLE No 1

(enacting terms)

This Directive	77/143/EEC	88/449/EEC	91/225/EEC	91/328/EEC	92/54/EEC	92/55/EEC	94/23/EC
Article 1 (1)	Article 1						
Article 1 (2)	Article 2 (1)						
Article 2	Article 4						
Article 3 (1) (1)	Article 5 (1)						
Article 3 (1) (2)	Article 5 (2)						
Article 3 (2)	Article 5 (3)						
Article 3 (3)							Article 2
Article 4 (1)	Article 2 (2)						
Article 4 (2)	Article 2 (3)						
Article 4 (3)							Article 4
Article 5 (indents 1 to 6)	Article 3						
Article 5 (indent 7)							
Article 6 (1)	Article 7 (1)	Article 1 (1)					Article 3
Article 6 (2)				Article 1 (1)			
Article 7 (1) and (2)			Article 1				

This Directive	77/143/EEC	88/449/EEC	91/225/EEC	91/328/EEC	92/54/EEC	92/55/EEC	94/23/EC
Article 8 (1) to (4)			Article 1	Article 3			
Article 9 (1)							
Article 9 (2)							
Article 10							
Article 11 (1)	Article 6	Article 2 (1)	Article 2 (1)	Article 2 (1)	Article 2 (1)	Article 2 (1 to 3)	Article 5 (1)
Article 11 (2)		Article 2 (2)	Article 2 (2)	Article 2 (2)	Article 2 (2)		Article 5 (2)
Article 11 (3)							
Article 12						Article 2 (4)	
Article 13							

CORRELATION TABLE No 2
(vehicle categories subject to roadworthiness tests)

This Directive	77/143/EEC	88/449/EEC	91/225/EEC	91/328/EEC	92/54/EEC	92/55/EEC	94/23/EC
Annex I	Annex I category 1 category 2 category 3 category 4	Article 1 (2)					
category 1							
category 2							
category 3							
category 4							
category 5							
category 6				Article 1 (2)			

CORRELATION TABLE No 3

(items to be checked/tested)

This Directive	77/143/EEC	88/449/EEC	91/225/EEC	91/328/EEC	92/54/EEC	92/55/EEC	94/23/EC
Annex II (*)	Annex II						
Introductory note 1	Introductory note 1						
Introductory note 2					Article 1 (1)		
Introductory note 3					Article 1 (1)		
Point 1					Article 1 (1)		
Point 1.2							
Point 1.2.1							Article 1
Point 1.2.2							
Point 1.3					Article 1 (1)		
Point 1.3.1							Article 1
Point 1.3.2							
Point 1.4					Article 1 (1)		
Point 1.4.1							Article 1
Point 1.4.2							
Point 1.5					Article 1 (1)		
Point 1.6							
Point 2		Article 1 (3)					
Point 7.8							
Point 7.9 (title) (indents 1 to 3)	Article 1 (3)						
Point 7.10 (indents 1 to 3)							
Point 8		Article 1 (3)					
Point 8.1							
Point 8.2						Article 1 (1)	
Point 8.2.4							
Point 8.3		Article 1 (3)					
Point 10.2							

(*) NB: Category 4 (taxis and ambulances) is transferred from the left-hand column to the right-hand one (with categories 5 and 6) in Annex II.

COUNCIL DIRECTIVE 96/97/EC

of 20 December 1996

amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100 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 Article 119 of the Treaty provides that each Member State shall ensure the application of the principle that men and women should receive equal pay for equal work; whereas 'pay' should be taken to mean the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives, directly or indirectly, from his employer in respect of his employment;

Whereas, in its judgement of 17 May 1990, in Case 262/88: Barber v. Guardian Royal Exchange Assurance Group ⁽⁴⁾, the Court of Justice of the European Communities acknowledges that all forms of occupational pension constitute an element of pay within the meaning of Article 119 of the Treaty;

Whereas, in the abovementioned judgment, as clarified by the judgment of 14 December 1993 (Case C-110/91: Moroni v. Collo GmbH) ⁽⁵⁾, the Court interprets Article 119 of the Treaty in such a way that discrimination between men and women in occupational social security schemes is prohibited in general and not only in respect of establishing the age of entitlement to a pension or when an occupational pension is offered by way of compensation for compulsory retirement on economic grounds;

Whereas, in accordance with Protocol 2 concerning Article 119 of the Treaty annexed to the Treaty establishing the European Community, benefits under

occupational social security schemes shall not be considered as remuneration if and in so far as they are attributable to periods of employment prior to 17 May 1990, except in the case of workers or those claiming under them who have, before that date, initiated legal proceedings or raised an equivalent claim under the applicable national law;

Whereas, in its judgments of 28 September 1994 ⁽⁶⁾ (Case C-57/93: Vroege v. NCIV Instituut voor Volkshuisvesting BV and Case C-128/93: Fisscher v. Voorhuis Hengelo BV), the Court ruled that the abovementioned Protocol did not affect the right to join an occupational pension scheme, which continues to be governed by the judgment of 13 May 1986 in Case 170/84: Bilka-Kaufhaus GmbH v. Hartz ⁽⁷⁾, and that the limitation of the effects in time of the judgment of 17 May 1990 in Case C-262/88: Barber v. Guardian Royal Exchange Assurance Group does not apply to the right to join an occupational pension scheme; whereas the Court also ruled that the national rules relating to time limits for bringing actions under national law may be relied on against workers who assert their right to join an occupational pension scheme, provided that they are not less favourable for that type of action than for similar actions of a domestic nature and that they do not render the exercise of rights conferred by Community law impossible in practice; whereas the Court has also pointed out that the fact that a worker can claim retroactively to join an occupational pension scheme does not allow the worker to avoid paying the contributions relating to the period of membership concerned;

Whereas the exclusion of workers on the grounds of the nature of their work contracts from access to a company or sectorial social security scheme may constitute indirect discrimination against women;

Whereas, in its judgment of 9 November 1993 (Case C-132/92: Birds Eye Walls Ltd v. Friedel M. Roberts) ⁽⁸⁾, the Court has also specified that it is not contrary to Article 119 of the Treaty, when calculating the amount of a bridging pension which is paid by an employer to male and female employees who have taken early retirement on grounds of ill health and which is intended to

⁽¹⁾ OJ No C 218, 23. 8. 1995, p. 5.

⁽²⁾ Opinion delivered on 12 November 1996 (OJ No C 362, 2. 12. 1996).

⁽³⁾ OJ No C 18, 22. 1. 1996, p. 132.

⁽⁴⁾ [1990] ECR I-1889.

⁽⁵⁾ [1993] ECR I-6591.

⁽⁶⁾ [1994] ECR I-4541 and (1994) ECR I-4583, respectively.

⁽⁷⁾ [1986] ECR I-1607.

⁽⁸⁾ [1993] ECR I-5579.

compensate, in particular, for loss of income resulting from the fact that they have not yet reached the age required for payment of the State pension which they will subsequently receive and to reduce the amount of the bridging pension accordingly, even though, in the case of men and women aged between 60 and 65, the result is that a female ex-employee receives a smaller bridging pension than that paid to her male counterpart, the difference being equal to the amount of the State pension to which she is entitled as from the age of 60 in respect of the periods of service completed with that employer;

Whereas, in its judgment of 6 October 1993 (Case C-109/91: *Ten Oever v. Stichting Bedrijfspensioenfonds voor het Glazenwassers- en Schoonmaakbedrijf*)⁽¹⁾ and in its judgments of 14 December 1993 (Case C-110/91: *Moroni v. Collo GmbH*), 22 December 1993 (Case C-152/91: *Neath v. Hugh Steeper Ltd*)⁽²⁾ and 28 September 1994 (Case C-200/91: *Coloroll Pension Trustees Limited v. Russell and Others*)⁽³⁾, the Court confirms that, by virtue of the judgment of 17 May 1990 (Case C-262/88: *Barber v. Guardian Royal Exchange Assurance Group*), the direct effect of Article 119 of the Treaty may be relied on, for the purpose of claiming equal treatment in the matter of occupational pensions, only in relation to benefits payable in respect of periods of service subsequent to 17 May 1990, except in the case of workers or those claiming under them who have, before that date, initiated legal proceedings or raised an equivalent claim under the applicable national law;

Whereas, in its abovementioned judgments (Case C-109/91: *Ten Oever v. Stichting Bedrijfspensioenfonds voor het Glazenwassers- en Schoonmaakbedrijf* and Case C-200/91: *Coloroll Pension Trustees Limited v. Russell and Others*), the Court confirms that the limitation of the effects in time of the Barber judgment applies to survivors' pensions and, consequently, equal treatment in this matter may be claimed only in relation to periods of service subsequent to 17 May 1990, except in the case of those who have, before that date, initiated legal proceedings or raised an equivalent claim under the applicable national law;

Whereas, moreover, in its judgments in Case C-152/91 and Case C-200/91, the Court specifies that the contributions of male and female workers to a defined-benefit pension scheme must be the same, since they are covered by Article 119 of the Treaty, whereas inequality of employers' contributions paid under funded

defined-benefit schemes, which is due to the use of actuarial factors differing according to sex, is not to be assessed in the light of that same provision;

Whereas, in its judgments of 28 September 1994⁽⁴⁾ (Case C-408/92: *Smith v. Advel Systems* and Case C-28/93: *Van den Akker v. Stichting Shell Pensioenfonds*), the Court points out that Article 119 of the Treaty precludes an employer who adopts measures necessary to comply with the Barber judgment of 17 May 1990 (C-262/88) from raising the retirement age for women to that which exists for men in relation to periods of service completed between 17 May 1990 and the date on which those measures come into force; on the other hand, as regards periods of service completed after the latter date, Article 119 does not prevent an employer from taking that step; as regards periods of service prior to 17 May 1990, Community law imposed no obligation which would justify retroactive reduction of the advantages which women enjoyed;

Whereas, in its abovementioned judgment in Case C-200/91: *Coloroll Pension Trustees Limited v. Russell and Others*, the Court ruled that additional benefits stemming from contributions paid by employees on a purely voluntary basis are not covered by Article 119 of the Treaty;

Whereas, among the measures included in its third medium-term action programme on equal opportunities for women and men (1991 to 1995)⁽⁵⁾, the Commission emphasizes once more the adoption of suitable measures to take account of the consequences of the judgment of 17 May 1990 in Case 262/88 (*Barber v. Guardian Royal Exchange Assurance Group*);

Whereas that judgment automatically invalidates certain provisions of Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes⁽⁶⁾ in respect of paid workers;

Whereas Article 119 of the Treaty is directly applicable and can be invoked before the national courts against any employer, whether a private person or a legal person, and whereas it is for these courts to safeguard the rights which that provision confers on individuals;

Whereas, on grounds of legal certainty, it is necessary to amend Directive 86/378/EEC in order to adapt the provisions which are affected by the Barber case-law,

⁽¹⁾ [1993] ECR I-4879.

⁽²⁾ [1993] ECR I-6953.

⁽³⁾ [1994] ECR I-4389.

⁽⁴⁾ [1994] ECR I-4435 and [1994] ECR I-4527, respectively.

⁽⁵⁾ OJ No C 142, 31. 5. 1991, p. 1.

⁽⁶⁾ OJ No L 225, 12. 8. 1986, p. 40.

HAS ADOPTED THIS DIRECTIVE:

2. Article 3 shall be replaced by the following:

Article 1

Directive 86/378/EEG shall be amended as follows:

1. Article 2 shall be replaced by the following:

'Article 2

1. "Occupational social security schemes" means schemes not governed by Directive 79/7/EEC whose purpose is to provide workers, whether employees or self-employed, in an undertaking or group of undertakings, area of economic activity, occupational sector or group of sectors with benefits intended to supplement the benefits provided by statutory social security schemes or to replace them, whether membership of such schemes is compulsory or optional.

2. This Directive does not apply to:

- (a) individual contracts for self-employed workers;
- (b) schemes for self-employed workers having only one member;
- (c) insurance contracts to which the employer is not a party, in the case of salaried workers;
- (d) optional provisions of occupational schemes offered to participants individually to guarantee them:
 - either additional benefits, or
 - a choice of date on which the normal benefits for self-employed workers will start, or a choice between several benefits;
- (e) occupational schemes in so far as benefits are financed by contributions paid by workers on a voluntary basis.

3. This Directive does not preclude an employer granting to persons who have already reached the retirement age for the purposes of granting a pension by virtue of an occupational scheme, but who have not yet reached the retirement age for the purposes of granting a statutory retirement pension, a pension supplement, the aim of which is to make equal or more nearly equal the overall amount of benefit paid to these persons in relation to the amount paid to persons of the other sex in the same situation who have already reached the statutory retirement age, until the persons benefiting from the supplement reach the statutory retirement age.'

'Article 3

This Directive shall apply to members of the working population, including self-employed persons, persons whose activity is interrupted by illness, maternity, accident or involuntary unemployment and persons seeking employment, to retired and disabled workers and to those claiming under them, in accordance with national law and/or practice.'

3. Article 6 shall be replaced by the following:

'Article 6

1. Provisions contrary to the principle of equal treatment shall include those based on sex, either directly or indirectly, in particular by reference to marital or family status, for:

- (a) determining the persons who may participate in an occupational scheme;
- (b) fixing the compulsory or optional nature of participation in an occupational scheme;
- (c) laying down different rules as regards the age of entry into the scheme or the minimum period of employment or membership of the scheme required to obtain the benefits thereof;
- (d) laying down different rules, except as provided for in points (h) and (i), for the reimbursement of contributions when a worker leaves a scheme without having fulfilled the conditions guaranteeing a deferred right to long-term benefits;
- (e) setting different conditions for the granting of benefits or restricting such benefits to workers of one or other of the sexes;
- (f) fixing different retirement ages;
- (g) suspending the retention or acquisition of rights during periods of maternity leave or leave for family reasons which are granted by law or agreement and are paid by the employer;
- (h) setting different levels of benefit, except in so far as may be necessary to take account of actuarial calculation factors which differ according to sex in the case of defined-contribution schemes.

In the case of funded defined-benefit schemes, certain elements (examples of which are annexed) may be unequal where the inequality of the amounts results from the effects of the use of actuarial factors differing according to sex at the time when the scheme's funding is implemented;

(i) setting different levels for workers' contributions;

setting different levels for employers' contributions, except:

— in the case of defined-contribution schemes if the aim is to equalize the amount of the final benefits or to make them more nearly equal for both sexes,

— in the case of funded defined-benefit schemes where the employer's contributions are intended to ensure the adequacy of the funds necessary to cover the cost of the benefits defined,

(j) laying down different standards or standards applicable only to workers of a specified sex, except as provided for in points (h) and (i), as regards the guarantee or retention of entitlement to deferred benefits when a worker leaves a scheme.

2. Where the granting of benefits within the scope of this Directive is left to the discretion of the scheme's management bodies, the latter must comply with the principle of equal treatment.'

4. Article 8 shall be replaced by the following:

'Article 8

1. Member States shall take the necessary steps to ensure that the provisions of occupational schemes for self-employed workers contrary to the principle of equal treatment are revised with effect from 1 January 1993 at the latest.

2. This Directive shall not preclude rights and obligations relating to a period of membership of an occupational scheme for self-employed workers prior to revision of that scheme from remaining subject to the provisions of the scheme in force during that period.'

5. Article 9 shall be replaced by the following:

'Article 9

As regards schemes for self-employed workers, Member States may defer compulsory application of the principle of equal treatment with regard to:

(a) determination of pensionable age for the granting of old-age or retirement pensions, and the possible implications for other benefits:

— either until the date on which such equality is achieved in statutory schemes,

— or, at the latest, until such equality is prescribed by a directive;

(b) survivors' pensions until Community law establishes the principle of equal treatment in statutory social security schemes in that regard;

(c) the application of the first subparagraph of point (i) of Article 6 (1) to take account of the different actuarial calculation factors, at the latest until 1 January 1999.'

6. The following Article shall be inserted:

'Article 9a

Where men and women may claim a flexible pensionable age under the same conditions, this shall not be deemed to be incompatible with this Directive.'

7. The following Annex shall be added:

'ANNEX

Examples of elements which may be unequal, in respect of funded defined-benefit schemes, as referred to in Article 6 (h):

— conversion into a capital sum of part of a periodic pension,

— transfer of pension rights,

— a reversionary pension payable to a dependant in return for the surrender of part of a pension,

— a reduced pension where the worker opts to take early retirement.'

Article 2

1. Any measure implementing this Directive, as regards paid workers, must cover all benefits derived from periods of employment subsequent to 17 May 1990 and shall apply retroactively to that date, without prejudice to workers or those claiming under them who have, before that date, initiated legal proceedings or raised an equivalent claim under national law. In that event, the implementation measures must apply retroactively to 8 April 1976 and must cover all the benefits derived from periods of employment after that date. For Member States which acceded to the Community after 8 April 1976, that date shall be replaced by the date on which Article 119 of the Treaty became applicable on their territory.

2. The second sentence of paragraph 1 shall not prevent national rules relating to time limits for bringing actions under national law from being relied on against workers or those claiming under them who initiated legal proceedings or raise an equivalent claim under national law before 17 May 1990, provided that they are not less favourable for that type of action than for similar actions of a domestic nature and that they do not render the exercise of Community law impossible in practice.

3. For Member States whose accession took place after 17 May 1990 and who were on 1 January 1994 Contracting Parties to the Agreement on the European Economic Area, the date of 17 May 1990 in paragraph 1 and 2 of this Directive is replaced by 1 January 1994.

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 1997. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, they shall contain a reference to this Directive or be accompanied

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

2. Member States shall communicate to the Commission, at the latest two years after the entry into force of this Directive, all information necessary to enable the Commission to draw up a report on the application of this Directive.

Article 4

This Directive shall enter into force on the 20 day following that of its publication in the *Official Journal of the European Communities*.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 20 December 1996.

For the Council

The President

S. BARRETT

COUNCIL DIRECTIVE 96/98/EC

of 20 December 1996

on marine equipment

THE COUNCIL OF THE EUROPEAN UNION,

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

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

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

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

- (1) Whereas within the framework of the common transport policy further measures must be adopted to ensure safety in maritime transport;
- (2) Whereas shipping accidents are a matter of serious concern to the Community, in particular those that cause loss of human life and pollution of the Member States' seas and coastlines;
- (3) Whereas the risk of shipping accidents can be effectively reduced by means of common standards that ensure high safety levels in the performance of the equipment carried on board ships; whereas testing standards and testing methods can have great influence on the future performance of equipment;
- (4) Whereas international conventions require flag States to ensure that the equipment carried on board ships complies with certain safety requirements and to issue the relevant certificates; whereas to that end testing standards for certain types of marine equipment have been developed by the international standardization bodies and by the International Maritime Organization (IMO); whereas the national testing standards

implementing the international standards leave a margin of discretion certification authorities, which themselves have different levels of qualifications and experience; whereas that leads to varying levels of safety for products which the competent national authorities have certified as complying with the relevant international safety standards and to great reluctance on the part of Member States to accept that without further verification ships flying their flags carry equipment approved by other Member States;

- (5) Whereas common rules must be laid down to eliminate differences in the implementation of international standards; whereas such common rules will result in the elimination of unnecessary costs and administrative procedures relating to the approval of equipment, the improvement of operating conditions and of the competitive position of Community shipping and the elimination of technical barriers to trade by means of the mark of conformity affixed to equipment;
- (6) Whereas in its resolution of 8 June 1993 on a common policy on safe seas ⁽⁴⁾ the Council urged the Commission to submit proposals for harmonizing the implementation of IMO standards and the procedures for the approval of marine equipment;
- (7) Whereas action at Community level is the only possible way of achieving such harmonization, since Member States acting independently or through international organizations cannot establish the same level of safety performance in equipment;
- (8) Whereas a Council Directive is the appropriate legal instrument as it provides a framework for uniform and compulsory application of the international testing standards by Member States;

⁽¹⁾ OJ No C 218, 23. 8. 1995, p. 9.

⁽²⁾ OJ No C 101, 3. 4. 1996, p. 3.

⁽³⁾ European Parliament opinion of 29 November 1995 (OJ No C 339, 18. 12. 1995, p. 21), Council common position of 18 June 1996 (OJ No C 248, 26. 8. 1996, p. 10) and European Parliament Decision of 24 October 1996 (OJ No C 347, 18. 11. 1996).

⁽⁴⁾ OJ No C 271, 7. 10. 1993, p. 1.

- (9) Whereas it is appropriate in the first place to address equipment the carriage of which on board ship and the approval of which by national administrations in accordance with safety standards laid down in international conventions or resolutions is mandatory under the main international conventions;
- (10) Whereas there are various Directives that ensure the free movement of certain products which could be used *inter alia*, as equipment on board ships but which do not concern the Member States' certification of equipment in accordance with the relevant international conventions; whereas equipment to be placed on board ships must therefore be regulated exclusively by new common rules;
- (11) Whereas new testing standards must be laid down, preferably at international level, for equipment for which such standards do not already exist or are not sufficiently detailed;
- (12) Whereas Member States should ensure that the notified bodies that assess the compliance of equipment with testing standards are independent, efficient and professionally competent to carry out their tasks;
- (13) Whereas compliance with international testing standards can best be demonstrated by means of conformity-assessment procedures such as those laid down in Council Decision 93/465/EEC of 22 July 1993 concerning the modules for the various phases of the conformity-assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonization Directives ⁽¹⁾;
- (14) Whereas nothing in this Directive restricts the right granted to a flag State administration by international conventions to carry out operational-performance tests on board a ship for which it has issued a safety certificate, provided such tests do not duplicate the conformity-assessment procedures;
- (15) Whereas equipment covered by this Directive should, as a general rule, bear a mark to indicate its compliance with the requirement of this Directive;
- (16) Whereas Member States may in certain cases take provisional measures to limit or prohibit the use of equipment bearing the mark of conformity;
- (17) Whereas the use of equipment not bearing the mark of conformity may be allowed in exceptional circumstances;
- (18) Whereas a simplified procedure involving a regulatory committee must be followed for the amendment of this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The purpose of this Directive shall be to enhance safety at sea and the prevention of marine pollution through the uniform application of the relevant international instruments relating to equipment listed in Annex A to be placed on board ships for which safety certificates are issued by or on behalf of Member States pursuant to international conventions and to ensure the free movement of such equipment within the Community.

Article 2

For the purposes of this Directive:

- (a) 'conformity-assessment procedures' shall mean the procedures set out in Article 10 and Annex B;
- (b) 'equipment' shall mean items listed in Annexes A.1 and A.2 which must be placed on board a ship for use in order to comply with international instruments or are voluntarily placed on board for use, and for which the approval of the flag State administration is required according to international instruments;
- (c) 'radiocommunications equipment' shall mean equipment required by Chapter IV of the 1984 Solas Convention, as amended with regard to the Global Maritime Distress and Safety System (GMDSS) in 1988, and two-way VHF radiotelephone apparatus required by Regulation III/6.2.1 of the same Convention;
- (d) 'international conventions' shall mean:
- the 1996 International Convention on Load Lines (LL66),

⁽¹⁾ OJ No C 220, 30. 8. 1993, p. 23.

- the 1972 Convention on the International Regulations for Preventing Collisions at Sea (Colreg),
- the 1973 International Convention for the Prevention of Pollution from Ships (Marpol) and
- the 1974 International Convention for the Safety of Life at Sea (Solas),

together with their Protocols and the amendments thereto in force on the date of the adoption of this Directive;

- (e) 'international instruments' shall mean the relevant international conventions, the relevant resolutions and circulars of the International Maritime Organization (IMO), and the relevant international testing standards;
- (f) 'mark' shall mean the symbol referred to in Article 11 and set out in Annex D;
- (g) 'notified body' shall mean an organization designated by the competent national administration of a Member State in accordance with Article 9;
- (h) 'placed on board' shall mean installed or placed on board a ship;
- (i) 'safety certificates' shall mean the certificates issued by or on behalf of Member States in accordance with international conventions;
- (j) 'ship' shall mean a ship falling within the scope of international conventions; warships shall not be covered;
- (k) 'Community ship' shall mean a ship for which safety certificates are issued by or on behalf of Member States under international conventions. This definition shall not include a Member State administration's issuing a certificate for a ship at the request of a third country's administration;
- (l) 'new ship' shall mean a ship the keel of which is laid or which is at a similar stage of construction on or after the date of the entry into force of this Directive. For the purposes of this definition, 'a similar stage of construction' shall mean the stage at which:
 - (i) construction identifiable with a specific ship begins
 - and
 - (ii) assembly of that ship has commenced, comprising at least 50 tonnes or 1 % of the estimated mass of all structural material, whichever is less;
- (m) 'existing ship' shall mean a ship which is not a new ship;
- (n) 'testing standards' shall mean the standards set by
 - the International Maritime Organization (IMO),

- the International Organization for Standardization (ISO),
- the International Electrotechnical Commission (IEC),
- the European Committee for Standardization (CEN),
- the European Committee for Electrotechnical Standardization (Cenelec)
- and
- the European Telecommunication Standards Institute (ETSI)

in force on the date of the adoption of this Directive, and established in accordance with the relevant international conventions and with the relevant IMO resolutions and circulars to define testing methods and test results, but only in the form referred to in Annex A;

- (o) 'type-approval' shall mean the procedures for evaluating equipment produced in accordance with the appropriate testing standards and the issue of the appropriate certificate.

Article 3

1. This Directive shall apply to equipment for use on board:

- (a) a new Community ship whether or not the ship is situated within the Community at the time of construction;
- (b) an existing Community ship
 - where such equipment was not previously carried on board
 - or
 - where equipment which was previously carried on board the ship is replaced, except where international conventions permit otherwise,

whether or not the ship is situated within the Community when the equipment is placed on board.

2. This Directive shall not apply to equipment which on the date of the entry into force of this Directive has already been placed on board a ship.

3. Notwithstanding the fact that the equipment referred to in paragraph 1 may fall within the scope of Directives other than this Directive for the purpose of free movement, and in particular Council Directives 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility ⁽¹⁾ and 89/686/EEC of 21 December 1989

⁽¹⁾ OJ No L 139, 23. 5. 1989, p. 19. Directive as last amended by Directive 93/68/EEC (OJ No L 220, 31. 8. 1993, p. 1).

on the approximation of the laws of the Member States relating to personal protective equipment⁽¹⁾, that equipment shall be subject only to this Directive, to the exclusion of all others for those purposes.

Article 4

Each Member State or the organizations acting on its behalf shall ensure, when issuing or renewing the relevant safety certificates, that the equipment on board Community ships for which it issues safety certificates complies with the requirements of this Directive.

Article 5

1. Equipment listed in Annex A.1 that is placed on board a Community ship on or after the date referred to in the second subparagraph of Article 20 (1) shall meet the applicable requirements of the international instruments referred to in that Annex.

2. The compliance of equipment with the applicable requirements of the international conventions and of the relevant resolutions and circulars of the International Maritime Organization shall be demonstrated solely in accordance with the relevant testing standards and the conformity-assessment procedures referred to in Annex A.1. For items listed in Annex A.1, where both IEC and ETSI testing standards are given, those standards shall be alternatives and a manufacturer or his authorized representative established within the Community may determine which of them is to be used.

3. Equipment listed in Annex A.1 and manufactured before the date referred to in paragraph 1 may also be placed on the market and on board a Community ship the certificates of which were issued by or on behalf of a Member State in accordance with international conventions during the two years following that date if it was manufactured in accordance with procedures for type-approval already in force within the territory of that Member State before the date of the adoption of this Directive.

Article 6

1. No Member State shall prohibit the placing on the market or the placing on board a Community ship of equipment referred to in Annex A.1 which bears the mark or for other reasons complies with this Directive or

refuse to issue or renew the safety certificates relating thereto.

2. A radio licence shall be issued in accordance with the international radio regulations by the competent authority before the relevant safety certificate is issued.

Article 7

1. After the date of the entry into force of this Directive, the Community shall submit a request to the IMO or to the European standardization organizations, as appropriate, for the establishment of standards, including detailed testing standards, for the equipment listed in Annex A.2.

2. The request referred to in paragraph 1 shall be made:

- by the Presidency of the Council and by the Commission, when it is submitted to the IMO,
- by the Commission, in accordance with Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽²⁾, when it is submitted to the European standardization organizations. The mandates issued by the Commission shall aim for the development of international standards through procedures for cooperation between the European bodies and their counterparts at international level.

3. Member States shall do their utmost to ensure that the international organizations, including the IMO, develop those standards expeditiously.

4. The Commission shall monitor the development of the testing standards on a regular basis.

5. Should the international organizations, including the IMO, fail or refuse to adopt appropriate testing standards for a specific item of equipment within a reasonable time, standards based on the work of the European standardization organizations may be adopted in accordance with the procedure laid down in Article 18.

6. When the testing standards referred to in paragraphs 1 or 5 are adopted or enter into force, as appropriate, for a specific item of equipment, that equipment may be transferred from Annex A.2 to Annex A.1 in accordance with the procedure laid down in Article 18 and, Article 5 shall apply from the date of that transfer.

⁽¹⁾ OJ No L 399, 30. 12. 1989, p. 18. Directive as last amended by Directive 93/95/EEC (OJ No L 276, 9. 11. 1993, p. 11).

⁽²⁾ OJ No L 109, 26. 4. 1983, p. 8. Directive as last amended by the 1994 Act of Accession.

Article 8

1. In the case of a new ship which, irrespective of its flag, is not registered in a Member State but is to be transferred to the register of a Member State, such a ship shall, on transfer, be subject to inspection by the receiving Member State to verify that the actual condition of its equipment corresponds to its safety certificates and either complies with this Directive and bears the mark or is equivalent, to the satisfaction of that Member State's administration, to equipment type-approval in accordance with this Directive.

2. Unless the equipment either bears the mark or that administration considers it to be equivalent, it shall be replaced.

3. Equipment which is considered equivalent pursuant to this Article shall be given a certificate by the Member State which shall at all times be carried with the equipment and which gives the flag Member State's permission for the equipment to be placed on board the ship and imposes any restrictions or lays down any provisions relating to the use of the equipment.

4. In the case of radiocommunications equipment, the flag State administration shall require that such equipment does not unduly affect the requirements of the radio-frequency spectrum.

Article 9

1. Member States shall notify the Commission and the other Member States of the bodies which they have designated to carry out the procedures for in Article 10 together with the specific tasks which those notified bodies have been designated to carry out and the identification numbers assigned to them beforehand by the Commission. Each organization shall submit to the Member State which intends to designate it complete information concerning, and evidence of compliance with the criteria laid down in Annex C.

2. At least once every two years each Member State shall cause an audit of the duties its notified bodies are undertaking on its behalf to be carried out by the administration or by an impartial external organization appointed by the administration. That audit shall ensure that each notified body continues to comply with the criteria laid down in Annex C.

3. A Member State which has designated a body shall withdraw its designation if it finds that that body no longer complies with the criteria laid down in Annex C. It shall immediately inform the Commission and the other Member States accordingly.

Article 10

1. The conformity-assessment procedure, details of which are listed in Annex B, shall be:

- (i) EC type-examination (module B) and, before equipment is placed on the market and according to the choice made by the manufacturer or his authorized representative established within the Community from the possibilities indicated in Annex A.1, all equipment shall be subject to:
 - (a) the EC declaration of conformity to type (module C);
 - (b) the EC declaration of conformity to type (production-quality assurance) (module D);
 - (c) the EC declaration of conformity to type (product-quality assurance) (module E);
 - (d) the EC declaration of conformity to type (product verification) (module F); or
- (ii) EC full-quality assurance (module H).

2. The declaration of conformity to type shall be in written form and shall give the information specified in Annex B.

3. Where sets of equipment are produced individually or in small quantities and not in series or in mass, the conformity-assessment procedure may be the EC unit verification (module G).

4. The Commission shall keep an up-to-date list of approved equipment and applications withdrawn or refused and shall make it available to interested parties.

Article 11

1. Equipment referred to in Annex A.1 which complies with the relevant international instruments and is manufactured in accordance with the conformity-assessment procedures shall have the mark affixed to it by the manufacturer or his authorized representative established within the Community.

2. The mark shall be followed by the identification number of the notified body which has performed the conformity-assessment procedure, if that body is involved in the production-control phase, and by the last two digits of the number of the year in which the mark is affixed. The identification number of the notified body shall be affixed under its responsibility either by the body itself or by the manufacturer or his authorized representative established within the Community.

3. The form of the mark to be used shall be as set out in Annex D.

4. The mark shall be affixed to the equipment or to its data plate so as to be visible, legible and indelible throughout the anticipated useful life of the equipment. However, where that is not possible or not warranted on account of the nature of the piece of equipment, it shall be affixed to the packaging of the product, to a label or to a leaflet.

5. No marks or inscriptions which are likely to mislead third parties with regard to the meaning or the graphics of the mark referred to in this Directive shall be affixed.

6. The mark shall be affixed at the end of the production phase.

Article 12

1. Notwithstanding Article 6, each Member State may take the measures necessary to ensure that sample checks are carried out on equipment bearing the mark which is on its market and which has not yet been placed on board; in order to ensure that it complies with this Directive. Sample checks which are not provided for in the modules for conformity assessment in Annex B shall be carried out at the expense of the Member State.

2. Notwithstanding Article 6, after the installation of equipment which complies with this Directive on board a Community ship, evaluation by that ship's flag State administration of that equipment shall be permitted when operational on-board performance tests are required by international instruments for safety and/or pollution-prevention purposes, provided that they do not duplicate the conformity-assessment procedures already carried out. The flag State administration may require the manufacturer of the equipment, his authorized representative established within the Community or the person responsible for marketing the equipment within the Community to provide the inspection/testing reports.

Article 13

1. Where a Member State ascertains by inspection or otherwise that, notwithstanding the fact that it bears the mark, a piece of equipment referred to in Annex A.1, when correctly installed, maintained and used for its intended purpose, may compromise the health and/or safety of the crew, the passengers or, where applicable, other persons, or adversely affect the marine environment from the market or prohibit or restrict its being placed on the market or being used on board a ship for which it issues the safety certificates. The Member State shall immediately inform the other Member States and the Commission of that measure and indicate the reasons for

its decision and, in particular, whether non-compliance with this Directive is due to:

- (a) failure to comply with Article 5 (1) and (2);
- (b) incorrect application of the testing standards referred to in Article 5 (1) and (2); or
- (c) shortcomings in the testing standards themselves.

2. The Commission shall enter into consultation with the parties concerned as soon as possible. Where, after such consultation, the Commission finds that:

- the measures are justified, it shall immediately so inform the Member State which took the initiative and the other Member States; where the decision referred to in paragraph 1 is attributed to shortcomings in the testing standards, the Commission shall, after consulting the parties concerned, bring the matter before the Committee referred to in Article 18 within two months if the Member State which has taken the decision intends to maintain it and shall initiate the procedure referred to in Article 18,
- the measures are unjustified, it shall immediately so inform the Member State which took the initiative and the manufacturer or his authorized representative established within the Community.

3. Where a non-complying piece of equipment bears the mark, the appropriate measures shall be taken by the Member State which has authority over whomsoever affixed the mark; that Member State shall inform the Commission and the other Member States of the measures it has taken.

4. The Commission shall ensure that the Member States are kept informed of the progress and outcome of this procedure.

Article 14

1. Notwithstanding the provisions of Article 5, in exceptional circumstances of technical innovation, the flag State administration may permit equipment which does not comply with the conformity-assessment procedures to be placed on board a Community ship if it is established by trial or otherwise to the satisfaction of the flag State administration that such equipment is at least as effective as equipment which does comply with the conformity-assessment procedures.

In the case of radiocommunications equipment, the flag State administration shall require that such equipment does not unduly affect the requirements of the radio-frequency spectrum.

2. Such trial procedures shall in no way discriminate between equipment produced in the flag Member State and equipment produced in other States.

3. Equipment covered by this Article shall be given a certificate by the flag Member State which shall at all times be carried with the equipment and which gives the flag Member State's permission for the equipment to be placed on board the ship and imposes any restrictions or lays down any provisions relating to the use of the equipment.

4. Where a Member State allows equipment covered by this Article to be placed on board a Community ship, that Member State shall forthwith communicate the particulars thereof together with the reports of all relevant trials, assessments and conformity-assessment procedures to the Commission and the other Member States.

5. Equipment such as is referred to in paragraph 1 shall be added to Annex A.2 in accordance with the procedure laid down in Article 18.

6. Where a ship with equipment on board which is covered by paragraph 1 is transferred to another Member State, the receiving flag Member State may undertake the measures necessary, which may include tests and practical demonstrations, to ensure that the equipment is at least as effective as equipment which does comply with the conformity-assessment procedures.

Article 15

1. Notwithstanding Article 5, a flag State administration may permit equipment which does not comply with the conformity-assessment procedures or is not covered by Article 14 to be placed on board a Community ship for reasons of testing or evaluation, but only when the following conditions are complied with:

- (a) the equipment must be given a certificate by the flag Member State which must at all times be carried with the equipment and which gives the flag Member State permission for the equipment to be placed on board the Community ship and imposes any restrictions or lays down any provisions relating to the use of the equipment;
- (b) the permission must be limited to a short period of time;
- (c) the equipment must not be relied on in place of equipment which meets the requirements of this Directive and must not replace such equipment, which must remain on board the Community ship in working and ready for immediate use.

2. In the case of radiocommunications equipment, the flag State administration shall require that such equipment does not unduly affect the requirements of the radio-frequency spectrum.

Article 16

1. Where equipment needs to be replaced in a port outwith the Community and in exceptional circumstances which shall be duly justified to the flag State administration where it is not practicable in terms of reasonable time, delay and cost to place on board equipment which is EC type-approved, other equipment may be placed on board in accordance with the following procedure:

- (a) the equipment shall be accompanied by documentation issued by a recognized organization equivalent to a notified body, where an agreement has been concluded between the Community and the third country concerned on the mutual recognition of such organizations;
- (b) should it prove impossible to comply with (a), equipment accompanied by documentation issued by a Member State of the IMO which is a party to the relevant conventions, certifying compliance with the relevant IMO requirements, may be placed on board, subject to paragraphs 2 and 3.

2. The flag State administration shall be informed at once of the nature and characteristics of such other equipment.

3. The flag State administration shall, at the earliest opportunity, ensure that the equipment referred to in paragraph 1, along with its testing documentation, complies with the relevant requirements of the international instruments and of this Directive.

4. In the case of radiocommunications equipment, the flag State administration shall require that such equipment does not unduly affect the requirements of the radio-frequency spectrum.

Article 17

This Directive may be amended in accordance with the procedure laid down in Article 18, in order:

- to apply subsequent amendments of international instruments for the purposes of this Directive,
- to update Annex A, both by introducing new equipment and by transferring equipment from Annex A.2 to Annex A.1 and vice versa,
- to add the possibility of using modules B + C and module H for equipment listed in Annex A.1,
- to include other standardization organizations in the definition of 'testing standards' in Article 2.

Article 18

1. The Commission shall be assisted by the committee set up by Article 12 of Council Directive 93/75/EEC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods ⁽¹⁾ in accordance with the procedure laid down in this Article.

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

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

(b) If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If the Council has not acted within two months of the date of the referral to it, the Commission shall adopt the measures proposed.

Article 19

The Member States shall offer each other mutual assistance with a view to the effective implementation and enforcement of this Directive.

Article 20

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive no later than 30 June 1998.

They shall apply those measures from 1 January 1999.

When Member States adopt the measures referred to in the first subparagraph, these shall contain references to this Directive or shall be accompanied by such references on their official publication. The methods of making such references shall be laid down by the Member States.

2. The Member States shall immediately communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 21

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

Article 22

This Directive is addressed to the Member States.

Done at Brussels, 20 December 1996.

For the Council

The President

S. BARRETT

⁽¹⁾ OJ No L 247, 5. 10. 1993, p. 19.

ANNEX A

Annex A.1: Equipment for which detailed testing standards already exist in international instruments ⁽¹⁾

IN ADDITION TO THE INTERNATIONAL TESTING STANDARDS SPECIFICALLY MENTIONED A NUMBER OF PROVISIONS, WHICH MUST BE CHECKED DURING TYPE-EXAMINATION (TYPE-APPROVAL), ARE TO BE FOUND IN THE RELEVANT CONVENTION REGULATIONS

1. Life-saving appliances

Item No	Item designation	Regulation Solas 74 as amended where 'type-approval' is required	Applicable Regulation Solas 74 as amended	International testing standards ⁽²⁾	Modules for conformity assessment					
					B + C	B + D	B + E	B + F	G	H
1	Lifebuoys	Regulation III/4 & III,30	Regulation III/7.1,31	IMO Resolution A 689 (17)		x	x	x		
2	Lifebuoys self-igniting lights	Regulation III/4 & III,30	Regulation III/7.1,31.2	IMO Resolution A 689 (17)		x	x	x		
3	Lifebuoys self-activating smoke signals	Regulation III/4 & III,30	Regulation III/7.1,31.3	IMO Resolution A 689 (17)		x	x	x		
4	Lifejackets	Regulation III/4 & III,30	Regulation III/7.2,32	IMO Resolution A 689 (17)		x	x	x		
5	Immersion suits	Regulation III/4 & III,30	Regulation III/7.3,33	IMO Resolution A 689 (17)		x	x	x		
6	Immersion suits — life jackets	Regulation III/4 & III,30	Regulation III/33.1.2	IMO Resolution A 689 (17)		x	x	x		
7	Thermal protective aids	Regulation III/4 & III,30	Regulation III/34	IMO Resolution A 689 (17)		x	x	x		
8	Rocket parachute flares (pyrotechnics)	Regulation III/4 & III,30	Regulation III/35	IMO Resolution A 689 (17)		x		x		
9	Hand flares (pyrotechnics)	Regulation III/4 & III,30	Regulation III/36	IMO Resolution A 689 (17)		x		x		

10	Buoyant smoke signals (pyrotechnics)	Regulation III/4 & III,30	Regulation III/37	IMO Resolution A 689 (17)		x		x		
11	Line-throwing appliances (pyrotechnics)	Regulation III/4 & III,30	Regulation III/49	IMO Resolution A 689 (17)		x		x		
12	Inflatable liferafts	Regulation III/4 & III,30	Regulation III/38,39	IMO Resolution A 689 (17)		x				
13	Rigid liferafts	Regulation III/4 & III,30	Regulation III/38,40	IMO Resolution A 689 (17)		x				
14	Float-free arrangements for liferafts; hydrostatic release units	Regulation III/4 & III,30	Regulation III/38.6.3	IMO Resolution A 689 (17)		x		x		
15	Liferafts	Regulation III/4 & III,30	Regulation III/41 to 46	IMO Resolution A 689 (17)		x			x	
16	Rigid rescue boats	Regulation III/4 & III,30	Regulation III/47.1 & 2	IMO Resolution A 689 (17)		x			x	
17	Inflated rescue boats	Regulation III/4 & III,30	Regulation III/47	IMO Resolution A 689 (17)		x			x	
18	Launching appliances using fall and winch (davits)	Regulation III/4 & III,30	Regulation III/48.1 & 2	IMO Resolution A 689 (17)		x		x	x	
19	Float-free launching appliances	Regulation III/4 & III,30	Regulation III/48.1 & 3	IMO Resolution A 689 (17)		x		x	x	
20	Free-fall launching appliances	Regulation III/4 & III,30	Regulation III/48.1 & 4	IMO Resolution A 689 (17)					x	

(¹) Where module H appears in column six, module H plus design-examination certificate is to be understood.

(²) Where IMO Resolutions are cited, these standards are those contained in relevant parts of the Annexes to the Resolutions and exclude the provisions of the Resolutions themselves.

Item No	Item designation	Regulation Solas 74 as amended where 'type-approval' is required	Applicable Regulation Solas 74 as amended	International testing standards	Modules for conformity assessment					
					B + C	B + D	B + E	B + F	G	H
21	Launching and embarkation appliances	Regulation III/4 & III,30	Regulation III/48.1 & 5	IMO Resolution A 689 (17)		x			x	
22	Embarkation ladders	Regulation III/4 & III,30	Regulation III/48.7	IMO Resolution A 689 (17)		x	x	x		
23	Retro-reflective materials	Regulation III/4	Regulation III/30.2.7	IMO Resolution A 658 (16)		x	x	x		
24	Two-way VHF radiotelephone apparatus	Regulation III/4	Regulation III/6.2.1	IMO Resolution A 694 (17) IMO Resolution A 762 (18) I-ETS 300.225 IEC 945, draft IEC 1097-12		x	x	x	x	
25	Radar transponder SART	Regulation III/4	Regulation III/6.2.2	IMO Resolution A 530 (13) IMO Resolution A 697 (17) IMO Resolution A 694 (17) IEC 945 & 1097-1 ITU-R 628		x	x	x	x	
26	Radar reflector	Regulation III/4	Regulation III/38.5.1.14 Regulation III/41.8.30	IMO Resolution A 384 (X) ISO 8729		x	x	x	x	

2. Marine-pollution prevention

Item No	Item designation	Regulation Marpol 73/78 as amended where 'type-approval' is required	Applicable Regulation Marpol 73/78 as amended	International testing standards	Modules for conformity assessment					
					B + C	B + D	B + E	B + F	G	H
27	Oil-filtering equipment (for an oil content of the effluent not exceeding 15 p.p.m.)	Annex I Regulation 16(4),(5) & (7)	Annex I Regulation 16 (1) & (2)	MEPC 60 (33)		x	x	x		

28	Oil/water interface detectors	Annex I Regulation 15 (3) (b)	Annex I Regulation 15 (3) (b)	MEPC 5 (XIII)		x	x	x	
29	Oil-content meters	Annex I Regulation 16 (5)	Annex I Regulation 16 (2)	MEPC 60 (33)		x	x	x	
30	Process units intended for attachment to existing oily water separating equipment (for an oil content of the effluent not exceeding 15 p.p.m.)	Annex I Regulation 16 (5)	Annex I Regulation 16 (5)	IMO Resolution A 444 (XI)		x	x	x	
31	Oil discharge monitoring and control system for an oil tanker	Annex I Regulation 15 (3)	Annex I Regulation 15 (3)	IMO Resolution A 586 (14)		x	x	x	
32	Sewage treatment plants	Annex IV Regulation 8 (b)	Annex IV Regulation 8 (b)	MEPC 2 (VI)		x	x	x	

3. Fire protection

Item No	Item designation	Regulation Solas 74 as amended where 'type-approval' is required	Applicable Regulation Solas 74 as amended	International testing standards	Modules for conformity assessment					
					B + C	B + D	B + E	B + F	G	H
33	Not readily igniting materials for primary deck covering	Regulation II-2/34.8 Regulation II-2/49.3	Regulation II-2/34.8 Regulation II-2/49.3	IMO Resolution A 214 (VII) IMO Resolution A 687 (17) IMO MSC/Circ. 549		x				
34	Portable fire extinguishers	Regulation II-2/6.1	Regulation II-2/6	EN 3		x	x	x		

4. Navigation equipment

Item No	Item designation	Regulation Solas 74, as amended where 'type-approval' is required	Applicable Regulation Solas 74 as amended	International testing standards	Modules for conformity assessment					
					B + C	B + D	B + E	B + F	G	H
35	Magnetic compass	Regulation V/12 (r)	Regulation V/12 (b)	IMO Resolution A 382 (X) IMO Resolution A 394 (17) IEC 945 ISO 449, 2269, 10316		x	x	x	x	
36	Gyro compass	Regulation V/12 (r)	Regulation V/12 (d)	IMO Resolution A 694 (17) IMO Resolution A 424 (XI) IEC 945 ISO 8728		x	x	x	x	
37	Radar equipment	Regulation V/12 (r)	Regulation V/12 (g) Regulation V/12 (h)	IMO Resolution A 477 (XII) IMO Resolution A 694 (17) IEC 936 & 945		x	x	x	x	
38	ARPA	Regulation V/12 (r)	Regulation V/12 (j)	IMO Resolution A 422 (XI) IMO Resolution A 694 (17) IEC 945 & 872		x	x	x	x	
39	Echosounding equipment	Regulation V/12 (r)	Regulation V/12 (k)	IMO Resolution A 224 (VII) IMO Resolution A 694 (17) ISO 9875 IEC 945		x	x	x	x	
40	Speed- and distance-measuring equipment	Regulation V/12 (r)	Regulation V/12 (l)	IMO Resolution A 478 (XII) IMO Resolution A 694 (17) IEC 945 & 1023		x	x	x	x	
41	Rate-of-turn indicator	Regulation V/12 (r)	Regulation V/12 (n)	IMO Resolution A 526 (13) IMO Resolution A 694 (17) IEC 945		x	x	x	x	

42	Direction finder	Regulation V/12 (r)	Regulation V/12 (p)	IMO Resolution A 665 (16) IMO Resolution A 694 (17) IEC 945		x	x	x	x	x
43	Omega equipment	Regulation V/12 (r)	Regulation V/12 (p)	IMO Resolution A 479 (XII) IMO Resolution A 694 (17) IEC 945 & 1010		x	x	x	x	x
44	Loran-C equipment	Regulation V/12 (r)	Regulation V/12 (p)	IMO Resolution A 694 (17) IEC 945 & 1075		x	x	x	x	x
45	Decca navigator equipment	Regulation V/12 (r)	Regulation V/12 (p)	IMO Resolution A 694 (17) IEC 945 & 1135		x	x	x	x	x
46	GPS equipment	Regulation V/12 (r)	Regulation V/12 (p)	IMO Resolution A 694 (17) IEC 945 draft IEC 1108-1		x	x	x	x	x

5. Radio-communication equipment

Item No	Item designation	Regulation Solas 74 as amended where 'type-approval' is required	Applicable Regulation Solas 74 as amended	International testing standards	Modules for conformity assessment					
					B + C	B + D	B + E	B + F	G	H
47	VHF radio installation capable of transmitting and receiving DSC and radiotelephony	Regulation IV/14	Regulation IV/7.1.1	IMO Resolution A 524 (13) IMO Resolution A 609 (15) IMO Resolution A 694 (17) IEC 945 & 1097-3 & 1097-7 ITU-R 493,541 ETS 300 162		x	x	x	x	
48	VHF DSC watch receiver	Regulation IV/14	Regulation IV/7.1.2	IMO Resolution A 609 (15) IMO Resolution A 694 (17) IEC 945 & 1097-3 & 1097-8 ITU-R 493,541 ETS 300 338 ETS 300.162		x	x	x	x	

Item No	Item designation	Regulation Solas 74 as amended where 'type-approval' is required	Applicable Regulation Solas 74 as amended	International testing standards	Modules for conformity assessment					
					B + C	B + D	B + E	B + F	G	H
49	SART radar transponder	Regulation IV/14	Regulation IV/7.1.3	IMO Resolution A 530 (13) IMO Resolution A 697 (17) IMO Resolution A 694 (17) IEC 945 & 1097-1 ITU-R 628		x	x	x	x	
50	NAVTEX receiver	Regulation IV/14	Regulation IV/7.1.4	IMO Resolution A 525 (13) IMO Resolution A 694 (17) IEC 945 & 1097-6 ITU-R 540 & 625 ETS 300 065		x	x	x	x	
51	EGC receiver	Regulation IV/14	Regulation IV/7.1.5	IMO Resolution A 570 (14) IMO Resolution A 664 (16) IMO Resolution A 694 (17) IEC 945 draft IEC 1097-4 ETS 300 460		x	x	x	x	
52	HF marine safety information (MSI) equipment (HF NBDP receiver)	Regulation IV/14	Regulation IV/7.1.5	IMO Resolution A 700 (17) IMO Resolution A 694 (17) IEC 945 & draft 1097-11 ITU-R 491, 492, 625, 688 ETS 300 067 ETS 300 067/A1		x	x	x	x	
53	406 MHz Epirb	Regulation IV/14	Regulation IV/7.1.6	IMO Resolution A 662 (16) IMO Resolution A 763 (18) IMO Resolution A 696 (17) IMO Resolution A 694 (17) IEC 945 & 1097-2 ITU-R 633 ETS 300 066		x	x	x	x	

54	L-band Epirb	Regulation IV/14	Regulation IV/7.1.6	IMO Resolution A 661 (16) IMO Resolution A 662 (16) IMO Resolution A 694 (17) IEC 945 draft IEC 1097-5 ITU-R 632 Inmarsat-system definition manual (SDM) ETS 300 372		x	x	x	
55	2182 kHz watch receiver	Regulation IV/14	Regulation IV/7.2	IMO Resolution A 383 (X) IMO Resolution A 694 (17) IEC 945 IEC 1097-15 ETS 300 441 UIT-R M 219		x	x	x	
56	Two-tone alarm signal generator	Regulation IV/14	Regulation IV/7.3	IMO Resolution A 421 (XI) IMO Resolution A 571 (14) IMO Resolution A 694 (17) IEC 945 IEC 1097-9 ETS 300 373 UIT-R M 219		x	x	x	
57	MF radio installation capable of transmitting and receiving DSC and radiotelephony	Regulation IV/14	Regulation IV/9.1.1 Regulation IV/10.1.2	IMO Resolution A 610 (15) IMO Resolution A 694 (17) IEC 945 & 1097-3 & 1097-9 ITU-R 493, 541 ETS 300 373 ETS 300 338 UIT-R M 219		x	x	x	
58	MF radiotelephone DSC watch receiver	Regulation IV/14	Regulation IV/9.1.2 Regulation IV/10.1.3	IMO Resolution A 610 (15) IMO Resolution A 694 (17) IEC 945 & 1097-3 & 1097-10 ITU-R 493, 541 ETS 300 373 ETS 300 338		x	x	x	

Item No	Item designation	Regulation Solas 74 as amended where 'type-approval' is required	Applicable Regulation Solas 74 as amended	International testing standards	Modules for conformity assessment					
					B + C	B + D	B + E	B + F	G	H
59	Inmarsat-A SES	Regulation IV/14	Regulation IV/10.1.1	IMO Resolution A 570 (14) IMO Resolution A 698 (17) IMO Resolution A 694 (17) IEC 945 SDM		x	x	x	x	
60	Inmarsat-C SES	Regulation IV/14	Regulation IV/10.1.1	IMO Resolution A 570 (14) IMO Resolution A 663 (16) IMO Resolution A 664 (16) IMO Resolution A 694 (17) IEC 945 SDM draft IEC 1097-4 ETS 300 460		x	x	x	x	
61	MF/HF radio installation capable of transmitting and receiving DSC, NBDP and radiotelephony	Regulation IV/14	Regulation IV/10.2.1	IMO Resolution A 613 (15) IMO Resolution A 694 (17) IEC 945 & 1097-3 & 1097-9 & 1097-11 ITU-R 493, 541, 476, 492, 625 ETS 300 067 ETS 300 373 ETS 300 338		x	x	x	x	
62	Radiotelephone MF/HF DSC watch receiver	Regulation IV/14	Regulation IV/10.2.2	IMO Resolution A 613 (15) IMO Resolution A 694 (17) IEC 945 & 1097-3 & 1097-10 ITU-R 493 ETS 300 373 ETS 300 338		x	x	x	x	

Annex A.2: Equipment for which no detailed testing standards exist in international instruments

1. Life-saving appliances

Item No	Item designation	Regulation Solas 74 as amended where 'type-approval' is required	International testing standards
1	Evacuation, slide launching and embarkation	Regulation III/48.5	
2	Lifecraft-launching appliances	Regulation III/4 & III,30	IMO Resolution A 689 (17)

2. Fire protection

Item No	Item designation	Regulation Solas 74 as amended where 'type-approval' is required	International testing standards
3	Materials other than steel for pipes penetrating 'A' or 'B' class division	Regulation II-2/18.2.1	For plastic pipes: IMO Resolution A 753 (18)
4	Materials other than steel for pipes conveying oil or fuel oil	Regulation II-2/18.2.2	
5	Non-portable and transportable extinguishers	Regulation II-2/6.1 Regulation II-2/7.1.3, 7.2.3 & 7.3.1	
6	Fireman's breathing apparatus	Regulation II-2/17.1.2	
7	Sprinkler systems (limited to sprinkler heads and to the method of automatic sprinkling and signalling)	Regulation II-2/12.3, 36.1.2 & 36.2 Regulation 41-2 paragraph 5 & 52.2	ISO 6182
8	Nozzles for fixed pressure water-spraying fire-extinguishing systems for machinery spaces	Regulation II-2/10.1	
9	Nozzles for fixed pressure water-spraying fire-extinguishing systems for special category spaces	Regulation II-2/37.1.3	IMO Resolution A 123 (V)
10	Cold-weather starting of generator sets (starting devices)	Regulation II-1/44.2	
11	Fire hoses	Regulation II-2/4.7.1	

Item No	Item designation	Regulation Solas 74 as amended where 'type-approval' is required	International testing standards
12	Dual-purpose nozzles	Regulation II-2/4.8.4 Regulation II-2/41 — 2 paragraph 1.5	
13	Electric safety lamp	Regulation II-2/17.1.1.4	
14	Smoke detectors	Regulation II-2/13.3.2	
15	Heat detectors	Regulation II-2/13.3.3	
16	Primary deck covering, toxic and explosive hazards	Regulation II-2/34.8 Regulation II-2/49.3	IMO Resolution A 687 (17)
17	'A' and 'B' class bulkheads and decks, fire integrity	Regulation II-2/3.3.5 Regulation II-2/3.4.4	IMO Resolution A 754 (18)
18	Devices to prevent the passage of flame into the cargo tanks in oil tankers	Regulation II-2/59.1.5 Regulation II-2/59.1.9.4 & 59.2	IMO MSC/Circ. 373/Rev. 1 IMO MSC/Circ. 450/Rev. 1
19	Non-combustible materials used in 'A', 'B' and 'C' class divisions	Regulation II-2/3.1 Regulation II-2/3.3.4 Regulation II-2/3.4.3 Regulation II-2/3.5	IMO Resolution A 472 (XII)

3. Radio-communication equipment

Item No	Item designation	Regulation Solas 74 as amended where 'type-approval' is required	International testing standards
20	VHF Epirb	Regulation IV/14	IMO Resolution A 612 (15) IMO Resolution A 662 IMO Resolution A 694 (17) IEC 945 ITU-R 693

ANNEX B

Modules for conformity assessment

EC TYPE-EXAMINATION (MODULE B)

1. A notified body must ascertain and attest that a specimen, representative of the production envisaged, complies with the provisions of the international instruments that apply to it.
2. The application for the EC type-examination must be lodged by the manufacturer or his authorized representative established within the Community with a notified body of his choice.

The application must include:

- the name and address of the manufacturer and, if the application is lodged by the authorized representative, his name and address as well,
- a written declaration that the same application has not been lodged simultaneously with any other notified body,
- the technical documentation as described in point 3.

The applicant must place at the disposal of the notified body a specimen, representative of the production envisaged and hereinafter called 'type' ⁽¹⁾. The notified body may request further specimens if needed for the test programme.

3. The technical documentation must make it possible to assess the product's compliance with the requirements of the relevant international instruments. It must, as far as is relevant for such assessment, cover the design, the building standard, manufacture, installation and functioning of the product in accordance with the description of technical documentation set down in the Appendix to this Annex.
4. The notified body must:
 - 4.1. examine the technical documentation and verify that the type has been manufactured in accordance with the technical documentation;
 - 4.2. perform the appropriate examinations and necessary tests or have them performed to check whether the requirements of the relevant international instruments have actually been met;
 - 4.3. agree with the applicant the location where the examinations and necessary tests will be carried out.
5. Where the type meets the provisions of the relevant international instruments, the notified body must issue an EC type-examination certificate to the applicant. The certificate must give the name and address of the manufacturer, details of the equipment, the conclusions of the examination, the conditions of its validity and the necessary data for identification of the approved type.

A list of the relevant parts of the technical documentation must be annexed to the certificate and a copy kept by the notified body.

If a manufacturer is refused a type-certification, the notified body must give detailed reasons for that refusal.

Where a manufacturer reapplies for type-approval for equipment for which a type-certificate has been refused, his submission to the notified body must include all relevant documentation, including the original test reports, the detailed reasons for the previous refusal and details of all modifications made to the equipment.

⁽¹⁾ A type may cover several versions of the product provided that the differences between the versions do not affect the level of safety or the other requirements concerning the performance of the product.

6. The applicant must inform the notified body that holds the technical documentation concerning the EC type-examination certificate of all modifications to the approved product, which must receive additional approval where such changes may affect compliance with the requirements or the prescribed conditions for use of the product. Such additional approval must be given in the form of an addition to the original EC type-examination certificate.
 7. Each notified body must, on request, provide flag Member State administrations and the other notified bodies with the relevant information concerning the EC type-examination certificates and additions issued and withdrawn.
 8. The other notified bodies may receive copies of the EC type-examination certificates and/or their additions. The Annexes to the certificates must be kept at the disposal of the other notified bodies.
 9. The manufacturer or his authorized representative established within the Community must keep with the technical documentation copies of EC type-examination certificates and their additions for at least 10 years after the last product has been manufactured.
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CONFORMITY TO TYPE (MODULE C)

1. A manufacturer or his authorized representative established within the Community must ensure and declare that the products concerned conform to type as described in the EC type-examination certificate and satisfy the requirements of the international instruments that apply to them. The manufacturer or his authorized representative established within the Community must affix the mark to each product and draw up a written declaration of conformity.
 2. The manufacturer must take all measures necessary to ensure that the manufacturing process ensures that the manufactured products conform to type as described in the EC type-examination certificate and comply with the requirements of the international instruments that apply to them.
 3. The manufacturer or his authorized representative established within the Community must keep a copy of the declaration of conformity for at least 10 years after the last product has been manufactured.
-

PRODUCTION-QUALITY ASSURANCE (MODULE D)

1. A manufacturer who satisfies the obligations of point 2 must ensure and declare that the products concerned conform to type as described in the EC type-examination certificate. The manufacturer or his authorized representative established within the Community must affix the mark to each product and draw up a written declaration of conformity. The mark must be accompanied by the identification symbol of the notified body responsible for surveillance as specified in point 4.
2. The manufacturer must operate an approved quality system for production, final-product inspection and testing as specified in point 3 and must be subject to surveillance as specified in point 4.
3. **Quality system**
 - 3.1. The manufacturer must lodge an application for assessment of his quality system with a notified body of his choice for the products concerned.

The application must include:

- all relevant information for the product category envisaged,
- the documentation concerning the quality system,
- the technical documentation of the approved type and a copy of the EC type-examination certificate.

- 3.2. The quality system must ensure that the products conform to type as described in the EC type-examination certificate.

All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality-system documentation must permit a consistent interpretation of the quality programmes, plan, manuals and records.

It must, in particular, include an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to product quality,
- the manufacturing, quality-control and quality-assurance techniques, processes and systematic actions that will be used,
- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means of monitoring the achievement of the required product quality and the effective operation of the quality system.

- 3.3. The notified body must assess the quality system to determine whether it satisfies the requirements laid down in point 3.2. It must presume compliance with those requirements in respect of quality systems that implement the relevant harmonized standard.

The auditing team must have at least one member with experience of assessment in the product technology concerned. The assessment procedure must include a visit to the manufacturer's premises.

The manufacturer must be notified of the decision. The notification must include the conclusions of the examination and the reasoned assessment decision.

- 3.4. The manufacturer must undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorized representative established within the Community must keep the notified body that has approved the quality system informed of any intended updating of that quality system.

The notified body must assess the modifications proposed and decide whether the modified quality system will still satisfy the requirements laid down in point 3.2 or whether a reassessment is required.

The manufacturer must be notified of its decision. The notification must include the conclusions of the examination and the reasoned assessment decision.

4. Surveillance under the responsibility of the notified body

- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

- 4.2. The manufacturer must allow the notified body access for inspection purposes to the locations of manufacture, inspection and testing and storage and must provide it with all necessary information, in particular:

- the quality-system documentation,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

- 4.3. The notified body must periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and must provide the manufacturer with audit reports.

- 4.4. In addition, the notified body may pay unannounced visits to the manufacturer. During such visits the notified body may carry out tests or cause tests to be carried out to check that the quality system is functioning correctly, if necessary. The notified body must provide the manufacturer with a visit report and, if a test has taken place, with a test report.
5. The manufacturer must, for at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:
 - the documentation referred to in the second indent of the second paragraph of point 3.1,
 - the updating referred to in the second paragraph of point 3.4,
 - the decision and reports from the notified body referred to in the final paragraph of point 3.4, point 4.3 and point 4.4.
6. Each notified body must, on request, provide flag Member State administrations and the other notified bodies with the relevant information concerning the quality-system approvals issued and withdrawn.

PRODUCT-QUALITY ASSURANCE (MODULE E)

1. A manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned conform to type as described in the EC type-examination certificate. The manufacturer or his authorized representative established within the Community must affix the mark to each product and draw up a written declaration of conformity. The mark must be accompanied by the identification symbol of the notified body responsible for surveillance as specified in point 4.
2. The manufacturer must operate an approved quality system for final inspection and testing as specified in point 3 and must be subject to surveillance as specified in point 4.
3. **Quality system**
 - 3.1. The manufacturer must lodge an application for assessment of his quality system for the products concerned with a notified body of his choice.

The application must include:

 - all relevant information for the product category envisaged,
 - documentation concerning the quality system,
 - the technical documentation of the approved type and a copy of the EC type-examination certificate.
 - 3.2. Under the quality system, each product must be examined and appropriate tests must be carried out in order to ensure its compliance with the relevant requirements of the international instruments. All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. That quality-system documentation must ensure common understanding of the quality programmes, plans, manuals and records.

It must, in particular, include an adequate description of:

 - the quality objectives and the organizational structure, responsibilities and powers of the management with regard to product quality,
 - the examinations and tests that will be carried out after manufacture,
 - the means of monitoring the effective operation of the quality system,
 - the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

- 3.3 The notified body must assess the quality system to determine whether it satisfies the requirements laid down in point 3.2. It must presume compliance with the requirements in respect of quality systems that implement the relevant harmonized standard.
- The auditing team must have at least one member with experience as an assessor in the product technology concerned. The assessment procedure must include an assessment visit to the manufacturer's premises.
- The manufacturer must be notified of the decision. The notification must include the conclusions of the examination and the reasoned assessment decision.
- 3.4. The manufacturer must undertake to fulfil the obligations arising out of the quality system as approved and to maintain it in an appropriate and efficient manner.
- The manufacturer or his authorized representative established within the Community must keep the notified body that has approved the quality system informed of any intended updating of that quality system.
- The notified body must evaluate the modifications proposed and decide whether the modified quality system will still satisfy the requirements laid down in point 3.2 or whether a reassessment is required.
- The manufacturer must be notified of its decisions. The notification must include the conclusions of the examination and the reasoned assessment decision.
4. **Surveillance under the responsibility of the notified body**
- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.
- 4.2. The manufacturer must allow the notified body access for inspection purposes to the locations of inspection, testing and storage and must provide it with all necessary information, in particular:
- the quality-system documentation,
 - the technical documentation,
 - the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.
- 4.3. The notified body must periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and must provide the manufacturer with audit reports.
- 4.4. In addition, the notified body may pay unannounced visits to the manufacturer. During such visits the notified body may carry out tests or cause tests to be carried out to check that the quality system is functioning correctly, if necessary. The notified body must provide the manufacturer with a visit report and, if a test has been carried out, with a test report.
5. The manufacturer must, for at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:
- the documentation referred to in the third indent of the second paragraph of point 3.1,
 - the updating referred to in the second paragraph of point 3.4,
 - the decision and reports from the notified body referred to in the final paragraph of point 3.4, point 4.3 and point 4.4.
6. Each notified body must on request provide flag Member State administrations and the other notified bodies with the relevant information concerning the quality-system approvals issued and withdrawn.
-

PRODUCT VERIFICATION (MODULE F)

1. A manufacturer or his authorized representative established within the Community must check and attest that the products subject to point 3 conform to the type as described in the EC type-examination certificate.
2. The manufacturer must take all measures necessary to ensure that the manufacturing process ensures that the products conform to type as described in the EC type-examination certificate. He must affix the mark to each product and must draw up a declaration of conformity.
3. The notified body must carry out the appropriate examinations and tests in order to check that the product complies with the requirements of the international instruments either by examination and testing of every product as specified in point 4 or by examination and testing of products on a statistical basis, as specified in point 5, at the choice of the manufacturer.
- 3a. The manufacturer or his authorized representative established within the Community must keep a copy of the declaration of conformity for at least 10 years after the last product has been manufactured.
4. **Verification by examination and testing of every product**
 - 4.1. All products must be individually examined and appropriate tests must be carried out in order to verify their conformity to type as described in the EC type-examination certificate.
 - 4.2. The notified body must affix its identification symbol or cause it to be affixed to each approved product and draw up a written certificate of conformity relating to the tests carried out.
 - 4.3. The manufacturer or his authorized representative established within the Community must ensure that he is able to supply the notified body's certificate of conformity on request to the flag Member State administration.
5. **Statistical verification**
 - 5.1. The manufacturer must present his products in the form of homogeneous lots and must take all measures necessary to ensure that the manufacturing process ensures the homogeneity of each lot produced.
 - 5.2. All products must be available for verification in the form of homogeneous lots. A random sample must be drawn from each lot. Products in a sample must be individually examined and appropriate tests must be carried out to ensure that they comply with the requirements of the international instruments which apply to them and to determine whether the lot is to be accepted or rejected.
 - 5.3. In the case of accepted lots, the notified body must affix its identification symbol or cause it to be affixed to each product and must draw up a written certificate of conformity relating to the tests carried out. All products in the lot may be put on the market except those products from the sample which are found not to comply.

If a lot is rejected, the notified body or the competent authority must take appropriate measures to prevent that lot's being put on the market. In the event of frequent rejection of lots the notified body may suspend statistical verification.

The manufacturer may, under the responsibility of the notified body, affix the latter's identification symbol during the manufacturing process.
 - 5.4. The manufacturer or his authorized representative established within the Community must ensure that he is able to supply the notified body's certificates of conformity on request to the flag Member State administration.

UNIT VERIFICATION (MODULE G)

1. The manufacturer must ensure and declare that the product concerned, which has been issued with the certificate referred to in point 2, complies with the requirements of the international instruments that apply to it. The manufacturer or his authorized representative established within the Community must affix the mark to the product and draw up a declaration of conformity.
2. The notified body must examine the individual product and carry out appropriate tests to ensure that it complies with the relevant requirements of the international instruments.

The notified body must affix its identification number or cause it to be affixed to the approved product and must draw up a certificate of conformity concerning the tests carried out.

3. The aim of the technical documentation is to enable compliance with the requirements of the international instruments to be assessed and the design, manufacture and operation of the product to be understood.

FULL-QUALITY ASSURANCE (MODULE H)

1. A manufacturer who satisfies the obligations of paragraph 2 must ensure and declare that the products concerned comply with the requirements of the international instruments that apply to them. The manufacturer or his authorized representative established within the Community must affix the mark to each product and draw up a written declaration of conformity. The mark must be accompanied by the identification symbol of the notified body responsible for surveillance as specified in point 4.
2. The manufacturer must operate an approved quality system for design, manufacture, final-product inspection and testing as specified in point 3 and must be subject to surveillance as specified in point 4.

3. **Quality system**

- 3.1. The manufacturer must lodge an application for assessment of his quality system with a notified body.

The application must include:

- all relevant information for the product category envisaged and
- documentation concerning the quality system.

- 3.2. The quality system must ensure that the products comply with the requirements of the international instruments that apply to them.

All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality-system documentation must ensure common understanding of the quality policies and procedures such as quality programmes, plans, manuals and records.

It must, in particular, include an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to product quality,
- the technical design specifications, including standards, that will be applied and the assurance that the essential requirements of the international instruments that apply to the products will be met,

- the design-control and design-verification techniques, processes and systematic actions that will be used in the design of the products pertaining to the product category covered,
- the corresponding manufacturing, quality-control and quality-assurance techniques, processes and systematic actions that will be used,
- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means of monitoring the achievement of the required design and product quality and the effective operation of the quality system.

- 3.3. The notified body must assess the quality system to determine whether it satisfies the requirements laid down in point 3.2. It must presume compliance with the requirements in respect of quality systems that implement the relevant harmonized standard.

The auditing team must have at least one member with experience as an assessor in the product technology concerned. The assessment procedure must include an assessment visit to the manufacturer's premises.

The manufacturer must be notified of the decision. The notification must include the conclusions of the examination and the reasoned assessment decision.

- 3.4. The manufacturer must undertake to fulfil the obligations arising from the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorized representative established within the Community must keep the notified body that has approved the quality system informed of any intended updating of that quality system.

The notified body must evaluate the modifications proposed and decide whether the modified quality system will still satisfy the requirements laid down in point 3.2 or whether a reassessment is required.

The manufacturer must be notified of its decisions. The notification must include the conclusions of the examination and the reasoned assessment decision.

4. EC surveillance under the responsibility of the notified body

- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

- 4.2. The manufacturer must allow the notified body access for inspection purposes to the locations of design, manufacture, inspection and testing and storage and must provide it with all necessary information, in particular:

- the quality-system documentation,
- the quality records as provided for in the design part of the quality system, such as the results of analyses, calculations, tests, etc.,
- the quality records as provided for in the manufacturing part of the quality system, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

- 4.3. The notified body must periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and must provide the manufacturer with audit reports.

- 4.4. In addition the notified body may pay unannounced visits to the manufacturer. During such visits, the notified body may carry out tests or cause tests to be carried out to check that the quality system is functioning correctly, if necessary. The notified body must provide the manufacturer with a visit report and, if a test has been carried out, with a test report.

5. The manufacturer must, for at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:

- the documentation referred to in the second indent of the second paragraph of point 3.1,

- the updating referred to in the second paragraph of point 3.4,
 - the decision and reports from the notified body referred to in the final paragraph of point 3.4, point 4.3 and point 4.4.
6. Each notified body must, on request, provide flag Member State administrations and the other notified bodies with the relevant information concerning the quality-system approvals issued and withdrawn.
7. **Design examination**
- 7.1. The manufacturer must lodge an application for examination of the design with a single notified body.
- 7.2. The application must make it possible to understand the design, manufacture and operation of the product and to assess compliance with the requirements of international instruments.
- It must include:
- the technical design specifications, including standards, that have been applied and
 - the necessary supporting evidence for their adequacy, in particular where the standards specified in Article 5 have not been applied in full. Such supporting evidence must include the results of tests carried out by an appropriate laboratory of the manufacturer's or on his behalf.
- 7.3. The notified body must examine the application and where the design complies with those provisions of the international instruments that apply it must issue an EC design-examination certificate to the applicant. The certificate must include the conclusions of the examination, the conditions of its validity, the data necessary for identification of the approved design and, if relevant, a description of the product's functioning.
- 7.4. The applicant must keep the notified body that has issued the EC design-examination certificate informed of any modification to the approved design. Modifications to the approved design must receive additional approval from the notified body that issued the EC design-examination certificate where such changes may affect compliance with the relevant requirements of the international instruments or the prescribed conditions for use of the product. Such additional approval must be given in the form of an addition to the original EC design-examination certificate.
- 7.5. The notified bodies must, on request, provide flag Member State administrations and the other notified bodies with the relevant information concerning:
- the EC design-examination certificates and additions issued and
 - the EC design-approvals and additional approvals withdrawn.
-

*Appendix to Annex B***Technical documentation to be supplied by the manufacturer to the notified body**

The provisions set down in this Appendix apply to all modules of Annex B.

The technical documentation referred to in Annex B must comprise all relevant data and means used by the manufacturer to ensure that equipment complies with the essential requirements relating to it.

The technical documentation must make it possible to understand the design, manufacture and operation of the product, and must make it possible to assess compliance with the requirements of the relevant international instruments.

The documentation must, so far as they are relevant to assessment, include:

- a general description of the type,
- conceptual-design, build standard and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of those drawings and schemes, including the operation of the product,
- the results of design calculations made, impartial examinations carried out, etc.,
- impartial test reports,
- manuals for installation, use and maintenance.

Where appropriate, the design documentation must contain the following:

- attestations relating to the equipment incorporated in the appliance,
 - attestations and certificates relating to the methods of manufacture and/or inspection and/or monitoring of the appliance,
 - any other document that makes it possible for the notified body to improve its assessment.
-

ANNEX C

Minimum criteria to be taken into account by Member States for the designation of bodies

1. Notified bodies must fulfil the requirements of the relevant EN 45000 series.
2. A notified body must be independent and must not be controlled by manufacturers or by suppliers.
3. A notified body must be established within the territory of the Community.
4. Where type-approvals are issued by a notified body on behalf of a Member State, the Member State must ensure that the qualifications, technical experience and staffing of the notified body are such as will enable it to issue type-approvals which comply with the requirements of this Directive and to guarantee a high level of safety.
5. A notified body must be in a position to provide maritime expertise.

A notified body is entitled to perform conformity-assessment procedures for any economic operator established within or outwith the Community.

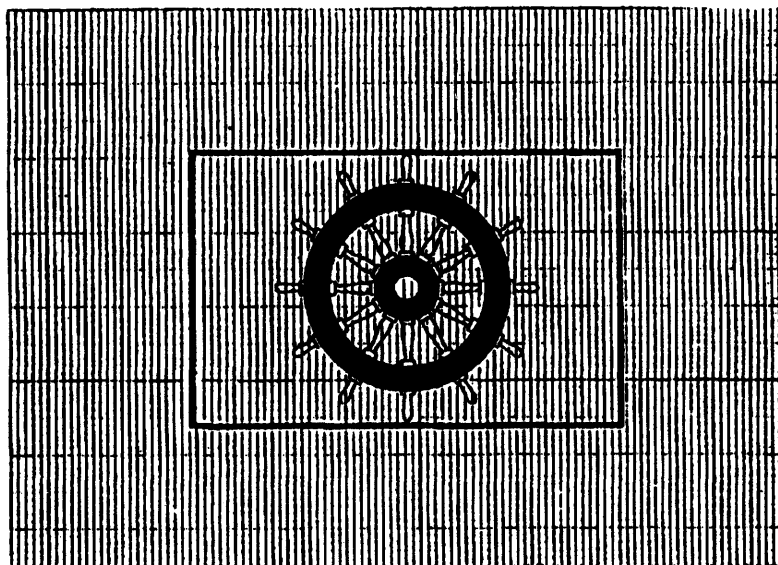
A notified body may perform conformity-assessment procedures in any Member State or State outwith the Community using either its home-based means or the personnel of its branch office abroad.

If a subsidiary of a notified body performs conformity-assessment procedures, all documents relating to the conformity-assessment procedures must be issued by and in the name of the notified body and not in the name of the subsidiary.

A subsidiary of a notified body which is established in another Member State may, however, issue documents relating to conformity-assessment procedures if it is notified by that Member State.

*ANNEX D***Mark of conformity**

The mark of conformity must take the following form:



If the mark is reduced or enlarged the proportions given in the above graduated drawing must be respected.

The various components of the mark must have substantially the same vertical dimension, which may not be less than 5 mm.

That minimum dimension may be waived for small devices.

II

(Acts whose publication is not obligatory)

COUNCIL

PROTOCOL

defining, for the period from 3 May 1996 to 2 May 1999, the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Government of the People's Republic of Angola on fishing off Angola ⁽¹⁾

Article 1

From 3 May 1996, for a period of three years, the limits referred to in Article 2 of the Agreement shall be as follows:

1. shrimp vessels:

6 550 GRT per month, as an annual average (maximum 22 vessels).

However, the quantities to be fished by Community vessels may not exceed 5 000 tonnes of shrimps and prawns per year, of which 30 % shall be prawns and 70 % shrimps;

2. demersal trawlers:

2 000 GRT per month, as an annual average;

3. bottom longliners, fixed gillnets:

1 750 GRT per month, as an annual average.

Fishing for *Centrophorus granulosus* is forbidden;

4. Freezer tuna seiners:

nine vessels;

5. Surface longliners:

12 vessels;

6. On a trial basis: fishing of pelagic species: two vessels.

Because of the nature of this type of fishing, it shall be subject to a trial period of six months starting on the date that this Protocol enters into force.

Article 2

1. The financial compensation provided for in Article 7 of the Agreement for the period referred to in Article 1 of this Protocol is hereby set at ECU 31 million payable in three equal annual instalments into an account to be indicated by the Ministry of Fisheries.

2. If vessels withdraw from the Agreement and the Angolan authorities do not agree to their replacement by other vessels, the resulting reduction in fishing opportunities for the Community shall entail a proportional adjustment of the financial compensation provided for in paragraph 1.

3. The use to which this compensation is put shall be the sole responsibility of Angola.

Article 3

During the period referred to in Article 1, the Community shall also contribute ECU 5 million towards the financing of Angolan scientific and technical programmes (equipment, infrastructure, monitoring seminars, studies, institutional support for non-industrial fishing, etc.). This amount shall be payable in three equal annual instalments to the Fisheries Research Institute of the Ministry of Fisheries. Part of this amount may be used to cover Angola's contributions to international fisheries organizations.

⁽¹⁾ See Decision 96/569/EC (OJ No L 250, 2. 10. 1996, p.14).

During the life of this Protocol the Community shall provide ECU 350 000 annually for scientific studies and fishery surveys.

Article 4

The two Parties agree that improving the skill and knowledge of persons employed in sea fishing is an essential part of the success of their cooperation. To this end the Community shall provide the Angolan nationals with study and practical training grants in the various scientific, technical and economic disciplines related to fisheries.

These grants may also be used in any State linked to the Community by a cooperation agreement. The total cost of these grants shall not exceed ECU 3 million. This amount shall be transferred to the account indicated by the Ministry of Fisheries in three equal annual instalments. The Ministry shall administer all the grants and other activities thus funded.

Article 5

Should the Community fail to make the payments provided for in Articles 2, 3 and 4 within the time limits laid down, application of the Agreement may be suspended.

Article 6

The Annex to the Agreement between the European Economic Community and the Government of the People's Republic of Angola on fishing off Angola is hereby repealed and replaced by Annexes A and B to this Protocol.

Article 7

This Protocol shall enter into force on the date of its signing.

It shall apply from 3 May 1996.

ANNEX A

Conditions governing fishing activities in Angolan waters by Community vessels

A. LICENCE APPLICATION AND ISSUING FORMALITIES

- (a) The Commission of the European Communities shall present to Angola's fishing authority, via the Delegation of the Commission of the European Communities in Angola, an application made by the shipowner for each vessel that wishes to fish under this Agreement, at least 15 days before the date of commencement of the period of validity requested. Applications shall be made on forms provided for the purpose by Angola, specimens of which are contained in Appendix 1 and Appendix 2. On first application the form should be accompanied by a tonnage certificate. All licence applications shall be accompanied by proof of payment of the licence fee for the period of its validity.

For the purposes of this Protocol the fishery products caught by Community vessels fishing under this Agreement shall be of Community origin.

- (b) Each licence shall be issued to the shipowner for one designated vessel. At the request of the Commission of the European Communities the licence for a vessel shall, in cases of proven *force majeure*, be replaced by a licence valid for another Community vessel of a similar type.
- (c) Licences shall be issued by the Angolan authorities to the skipper of the vessel in the port of Luanda after inspection of the vessel by the competent authority. However, in the case of tuna vessels and surface longliners, licences shall be issued to the shipowners or their representatives or agents.
- (d) The Delegation of the Commission of the European Communities in Angola shall be notified of the licences issued by Angola's fishing authority.
- (e) The licence document must be held on board at all times. However, in the case of tuna vessels and surface longliners, the vessel shall be entered on the list of authorized fishing vessels as soon as notification is received of payment of the advance by the European Commission to the Angolan authorities and the list shall then be communicated to the Angolan authorities responsible for supervising fisheries. Pending receipt of the licence, a copy may be obtained by fax and should be kept on board.
- (f) Licences shall be valid for periods of one year.
- (g) Each vessel shall be represented by an agent who is resident in Angola and approved by the Ministry of Fisheries.
- (h) The Angolan authorities shall communicate, as soon as possible, particulars of the bank accounts and currencies to be used for financial settlements under this Agreement.

B. LICENCE FEES

I. Provisions applicable to trawlers

The fees shall be:

- shrimp vessels: ECU 56/month per GRT,
- demersal vessels: ECU 195/year per GRT.

The fees may be paid quarterly or half-yearly. In this case the amount shall be increased by 5 % and 3 % respectively.

II. Provisions applicable to tuna vessels and surface longliners

The fees shall be ECU 20 per tonne caught within Angola's fishing zone.

Licences shall be issued following advance payment to Angola at a flat rate of ECU 4 000 a year for each freezer tuna seiner, equivalent, to the fees for a catch of 200 tonnes per year, and at a flat rate of ECU 2 000 a year for each surface longliner, equivalent to the fees for 100 tonnes of catch per year.

The final statement of the fees due for the fishing year shall be drawn up by the Commission of the European Communities at the end of the first quarter of the year following that of the catches on the basis of the catch statements made for each vessel and verified by a specialized scientific body in the region.

This statement shall be communicated to the Angolan authorities and to the shipowners at the same time. The shipowners shall make any additional payment, within 30 days of notification of the final statement at the latest, into an account opened with a financial institution or any other body specified by the Angolan authorities.

However, if the amount of the final statement is lower than the advance referred to above, the balance shall not be reimbursed to the shipowners.

C. BIOLOGICAL RECOVERY

Each year there is the possibility that a closed season on shrimp fishing may be decided for reasons of biological recovery in the light of the findings of scientific surveys. The Commission and shipowners shall be notified not less than three months in advance of any such closed season. Shipowners shall not pay for the licence fee during this period.

D. BY-CATCHES

The by-catches of shrimp vessels shall be the property of the shipowners. They shall be authorized to catch up to 500 tonnes of crab per annum.

E. LANDINGS

Community surface longliners shall endeavour to help supply Angolan tuna-canning factories, in accordance with their fishing effort in the zone, at a price to be jointly agreed between the shipowners and the Angolan fishing authorities based on current international market prices. Payment shall be in a convertible currency.

F. TRANSHIPMENTS

All transshipments shall be notified to the competent Angolan fishing authorities eight days in advance and shall take place in one of the bays of Luanda or Lobito in the presence of the Angolan tax authorities.

A copy of the documentation relating to transshipments shall be forwarded to the Inspection and Monitoring Department of the Ministry of Fisheries 15 days before the end of each month for the preceding month.

G. STATEMENT OF CATCHES

1. Shrimp vessels and demersal trawlers

- (a) At the end of each fishing campaign these vessels must forward to the Fisheries Research Institute in Luanda, via the Delegation of the Commission of the European Communities, the daily catch reports drawn up by the skipper in accordance with the specimen contained in Appendices 3 and 4.

Furthermore, each vessel shall present a monthly report to the planning office of the Ministry of Fisheries, listing the catches made during the month and the quantities on board on the last day of the month. This report shall be presented no later than the 45th day following the end of the month concerned. In the event of failure to comply with this provision, Angola reserves the right to apply the penalties provided for in its legislation.

- (b) These vessels must also inform Luanda radio station on a daily basis of their geographical position and the previous day's catches. Shipowners shall be notified of the call sign at the time of issue of the fishing licence. If it is not possible to use the radio, vessels may use alternative means of communication such as telex or telegraph.

Before leaving Angola's fishing zone, these vessels must obtain authorization from the Department of Inspection and Monitoring of the Ministry of Fisheries and have the catches on board checked.

2. Tuna vessels and surface longliners

Every three days during the fishing period in Angola's fishing zone, vessels shall inform Luanda radio station of their position and their catches. On entering and leaving Angola's fishing zone, the vessels shall inform Luanda radio station of their position and the volume of the catches on board.

If it is not possible to use the radio, vessels may use alternative means of communication such as telex or telegraph.

In addition, the skipper shall keep a fishing log book, in accordance with Appendix 5, for each fishing period spent in Angola's fishing zone.

This form must be completed legibly and be signed by the skipper of the vessel and sent to the Department of Inspection and Monitoring of the Ministry of Fisheries via the Delegation of the European Communities within 45 days of the end of the fishing campaign.

In the event of failure to comply with this provision, Angola reserves the right to apply the penalties provided for in its legislation.

H. FISHING ZONES

- (a) The fishing zones accessible to shrimp vessels shall comprise all waters under the sovereignty or the jurisdiction of the Republic of Angola north of 12° 20' prime and beyond the first 12 nautical miles measured from the base lines.
- (b) The fishing zones accessible to freezer tuna seiners and surface longliners shall comprise all waters under the sovereignty or the jurisdiction of the Republic of Angola beyond the first 12 nautical miles measured from the base lines.
- (c) The fishing zones accessible to vessels engaged in demersal fishing shall comprise all waters under the sovereignty or the jurisdiction of the Republic of Angola:
- trawlers: beyond the first 12 nautical miles measured from the base lines and restricted northwards by 13° 00' prime and south and southwards by a line five miles north of the limit between the exclusive economic zones (EEZs) of Angola and Namibia,
 - other types of vessels: beyond the first eight nautical miles measured from the base lines and restricted southwards by a line five miles north of the limit between the EEZs of Angola and Namibia.

I. SIGNING OF CREWS

Owners of all vessels, except freezer tuna seiners and surface longliners, to whom fishing licences have been issued under this Agreement shall contribute to the on-the-job vocational training of at least five Angolan seamen on board each vessel, who shall be freely chosen from a list drawn up by the Ministry of Fisheries.

Should an observer be taken on board at Angola's request, he shall be included among the five seamen referred to above.

Community shipowners shall endeavour to increase the number of seamen and improve their vocational skills.

The seamen's wages shall be borne by the shipowners in accordance with the terms mutually agreed and shall be paid into an account opened with a financial institution designated by the Ministry of Fisheries. This pay shall include life insurance against all risks.

J. SCIENTIFIC OBSERVERS

Any vessel may be asked to take on board a scientific observer designated and employed by the Ministry of Fisheries.

The scientific observer shall receive the same treatment as the ship's officers. The observer shall be given all facilities necessary for him to carry out his duties. The scientific observer's presence and work should neither interrupt nor hinder the fishing activities.

ECU 15 shall be paid by shipowners for each day spent on board by an observer on duty to cover the cost to Angola of placing observers on vessels. The period spent on board a vessel by a scientific observer shall be the length of a trip.

K. INSPECTION AND MONITORING

At the request of the Angolan authorities, Community fishing vessels operating under the Agreement shall allow on board any Angolan officials responsible for the inspection and monitoring of fishing activities and facilitate the accomplishment of their duties.

These officials shall remain on board no longer than is necessary for the accomplishment of their duties.

L. FUEL SUPPLIES, REPAIRS AND OTHER SERVICES

All vessels, except tuna vessels, operating in Angola's fishing zone under this Agreement must obtain their fuel and water supplies and have shipyard repairs and maintenance carried out in Angola wherever possible.

Subject to these same conditions, the transport of crews shall be undertaken by the Angolan national airline, TAAG.

Fuel shall not be taken on board outside the ports of Luanda or Lobito without authorization from the Department of Inspection and Monitoring of the Ministry of Fisheries.

M. MESH SIZES

The minimum size of the mesh used shall be:

- (a) 40 mm for shrimp fishing; and
- (b) 110 mm for demersal fishing.

The introduction of new mesh sizes shall apply to Community vessels from the sixth month following notification to the Commission of the European Communities.

N. BOARDING PROCEDURE

The Delegation of the Commission of the European Communities in Luanda shall be informed within 48 hours of the boarding of any fishing vessel flying the flag of a Member State of the Community within Angola's fishing zone under this Agreement and shall at the same time receive a report of the circumstances and reasons for the boarding of the vessel.

ANNEX B

Conditions governing the fishing of pelagic species in Angolan waters by Community vessels

A. LICENCE APPLICATION AND ISSUING FORMALITIES

- (a) The Commission of the European Communities shall submit to Angola's fishing authority, via the Delegation of the Commission of the European Communities in Angola, an application made by the shipowner for each vessel that wishes to fish under this Agreement, at least 15 days before the date of commencement of the period of validity requested. Applications shall be made on forms provided for the purpose by Angola, specimens of which are contained in Appendix 1. On first application the form should be accompanied by a tonnage certificate. All licence applications shall be accompanied by proof of payment of the licence fee for the period of its validity.

When renewing the licence, only proof of payment of the fee for the period in question need be presented to the Angolan authorities; the other documents referred to above are presented only with the first application or when the technical characteristics of the vessel have changed.

- (b) A licence will be issued to the shipowner for one designated vessel. At the request of the Commission of the European Communities the licence for a vessel shall, in cases of proven *force majeure*, be replaced by a licence valid for another Community vessel of a similar type.
- (c) On first application, licences shall be issued by the Angolan authorities to the skipper of the vessel in the nearest port after inspection of the vessel by the competent authority.
- (d) The Delegation of the Commission of the European Communities in Angola shall be notified of the licences issued by Angola's fishing authority.
- (e) The licence document must be held on board at all times. However, the vessel shall be entered on the list of authorized fishing vessels as soon as notification is received of payment of the advance by the Commission of the European Communities to the Angolan authorities and the list shall then be communicated to the Angolan authorities responsible for supervising fisheries. Pending receipt of the licence, a copy may be obtained by fax and should be kept on board.
- (f) Licences shall be valid for a minimum period of one month and be renewable.
- (g) Each vessel shall be represented by an agent who is resident in Angola and approved by the Ministry of Fisheries.
- (h) The Angolan authorities shall communicate particulars of the bank accounts and currencies to be used for payment of fees before the entry into force of this Protocol.
- (i) Licences shall authorize the fishing of mackerel and horse mackerel. A by-catch of up to 10 % is authorized.

B. LICENCE FEES

The fee shall be set at ECU 2 per month per GT.

After the trial period the conditions governing fishing shall be laid down by common agreement of the shipowners and the Angolan authorities in the light of the results of this period.

C. TRANSHIPMENTS

All transhipments shall be notified to the competent Angolan fishing authorities eight days in advance and shall take place in one of the bays of Luanda or Lobito in the presence of the Angolan tax authorities.

A copy of the documentation relating to transshipments shall be forwarded to the Inspection and Monitoring Department of the Ministry of Fisheries 15 days before the end of each month for the preceding month.

D. STATEMENT OF CATCHES

- (a) At the end of each fishing campaign these vessels must forward to the Fisheries Research Institute in Luanda, via the Delegation of the Commission of the European Communities, the daily catch reports drawn up by the skipper in accordance with the specimen contained in Appendix 6.

Furthermore, each vessel shall present a monthly report to the planning office of the Ministry of Fisheries, listing the catches made during the month and the quantities on board on the last day of the month. This report shall be presented no later than the 45th day following the end of the month concerned.

- (b) Before leaving Angola's fishing zone, these vessels must obtain authorization from the Department of Inspection and Monitoring of the Ministry of Fisheries and have the catches on board checked.

In the event of failure to comply with this provision, Angola reserves the right to apply the penalties provided for in its legislation.

E. FISHING ZONES

The fishing zones accessible to vessels fishing pelagic species shall comprise all waters under the sovereignty or the jurisdiction of the Republic of Angola beyond the first 12 nautical miles.

F. SIGNING ON OF CREWS

Vessels fishing for pelagic species during the trial period shall not be subject to the requirement to sign on Angolan fishermen.

G. SCIENTIFIC OBSERVERS

Any vessel may be asked to take on board a scientific observer designated and employed by the Ministry of Fisheries.

The scientific observer shall receive the same treatment as the ship's officers. The observer shall be given all facilities necessary for him to carry out his duties. The scientific observer's presence and work should neither interrupt nor hinder the fishing activities.

ECU 15 shall be paid by shipowners for each day spent on board by an observer on duty to cover the cost to Angola of placing observers on vessels. The period spent on board a vessel by a scientific observer shall be the length of a trip.

H. INSPECTION AND MONITORING

At the request of the Angolan authorities, Community fishing vessels operating under the Agreement shall allow on board any Angolan officials responsible for the inspection and monitoring of fishing activities and facilitate the accomplishment of their duties.

These officials shall remain on board no longer than is necessary for the accomplishment of their duties.

I. FUEL SUPPLIES, REPAIRS AND OTHER SERVICES

All vessels operating in Angola's fishing zone under this Agreement must obtain their fuel and water supplies and have shipyard repairs and maintenance carried out in Angola wherever possible.

Subject to these same conditions, the transport of crews shall be undertaken by the Angolan national airline, TAAG.

Fuel shall not be taken on board outside the ports of Luanda or Lobito without authorization from the Department of Inspection and Monitoring of the Ministry of Fisheries.

J. MESH SIZES

The minimum size of the mesh used shall be that laid down by Angolan law.

K. BOARDING PROCEDURE

The Delegation of the Commission in Luanda shall be informed within 48 hours of the boarding of any fishing vessel flying the flag of a Member State of the Community within Angola's fishing zone under this Agreement, and shall at the same time receive a report of the circumstances and reasons for the boarding of the vessel.

*Appendix 1*APPLICATION FOR A LICENCE TO FISH FOR SHRIMP AND DEMERSAL SPECIES IN THE
WATERS OF ANGOLA

PART A

1. Name of owner:
2. Nationality of owner:
3. Business address of owner:
.....
.....
4. Chemical additives which may be used (brand name and composition):
.....
.....
.....

PART B

To be completed for each vessel

1. Period of validity:
2. Name of vessel:
3. Year of construction:
4. Original flag country:
5. Currently flying the flag of:
6. Date of acquisition of current flag:
7. Year of acquisition:
8. Port and registration number:
9. Fishing method:
10. Gross registered tonnage:
11. Radio call sign:
12. Overall length (m):
13. Bow (m):
14. Depth (m):
15. Construction material of the hull:
16. Engine power (bhp):
17. Speed (knots):
18. Capacity of refrigeration chamber:
19. Capacity of fuel tanks (m³):
20. Capacity of fish holds (m³):
21. Colour of the hull:
22. Colour of the superstructure:

23. Communication equipment on board:

Type	Brand	Power (Watt)	Year of construction	Frequencies	
				Reception	Transmission

24. Navigation and detection equipment installed:

Type	Brand	Model	Range

25. Name of captain:

26. Nationality of captain:

To be annexed:

- three colour photographs of the vessel (side view),
- diagram and detailed description of fishing gear used,
- document giving proof of authority for the owner's representative to sign this application.

.....
(Date of application)

.....
(Signature of owner's representative)

Appendix 2

APPLICATION FOR A LICENCE TO FISH FOR TUNA IN THE WATERS OF ANGOLA

PART A

1. Name of owner:
2. Nationality of owner:
3. Business address of owner:
.....
.....

PART B

To be completed for each vessel

1. Period of validity:
2. Name of vessel:
3. Year of construction:
4. Original flag country:
5. Currently flying the flag of:
6. Date of acquisition of current flag:
7. Year of acquisition:
8. Ports and registration number:
9. Fishing method:
10. Gross registered tonnage:
11. Radio call sign:
12. Overall length (m):
13. Bow (m):
14. Depth (m):
15. Construction material of the hull:
16. Engine power (bhp):
17. Speed (knots):
18. Cabin capacity:
19. Capacity of fuel tanks (m³):
20. Capacity of fish holds (m³):
21. Freezing capacity (tonnes/24 hours) and freezing system used:
.....
22. Colour of the hull:
23. Colour of the superstructure:

24. Communication equipment on board:

Type	Brand	Model	Power (Watt)	Year of construction	Frequencies	
					Reception	Transmission

25. Navigation and detection equipment installed:

Type	Brand	Model

26. Auxiliary vessels used (for each vessel:
 26.1. Gross registered tonnage:
 26.2. Overall length (m):
 26.3. Bow (m):
 26.4. Depth (m):
 26.5. Construction material of the hull:
 26.6. Engine power (bhp):
 26.7. Speed (knots):
 27. Auxiliary aerial fish equipment (even if not based on board):

 28. Home port:
 29. Name of captain:
 30. Nationality of captain:

To be annexed:

- three colour photographs of the vessel (side view) and of auxiliary fishing vessels and of auxiliary aerial equipment for fish detection,
- diagram and detailed description of fishing gear used,
- document giving proof of authority for the owner's representative to sign this application.

.....
 (Date of application)

.....
 (Signature of owner's representative)

Appendix 3.1

DAILY CATCH REPORT
(for all demersal trawlers)

INSTITUTO DE INVESTIGAÇÃO PESQUEIRA

Haul	(13)	No	No	No	No	No
Date	(14)					
Latitude	(15)					
Longitude	(16)					
Sounding (m)	(17)					
Duration (h)	(18)					
Total catch (kg)	(19)					

1. Carapau					
2. Sardinelas					
3. Espadas					
4. Marionga					
5. Cachucho					
6. Tico tico					
7. Dentão					
8. Bicuda					
9. Pescada					
10. Calafate					
11. Corvinas					
12. Dentinho					
13. Roncador					
14. Raias					
15. Tubarões					
16. Camarões					
17. Chocos					
18. Lulas					

Total of processed fish (kg)

Species	Whole	Fillets	Heads off

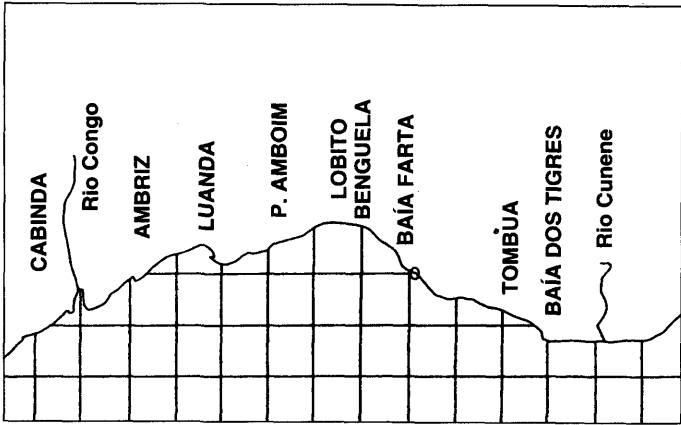
Rejected fish

[illegible]

Appendix 3.2

TRIP

Radio call signal (1)		Departure (6)	Arrival (7)
Registration (2)		Date	
Name of the vessel (3)		Port	
Nationality (4)		Skipper's name and signature (8)	
Owner (5)			



FISHING GEAR (Record the dimensions) (9)

Gear	Headline (m) (g)	Footrope (m)	Codend mesh size (mm)
Demersal trawl (a)			
Pelagic trawl (b)			
Shrimp trawl (c)			
	Floatline	Depth (m)	
Seine (d)			
	Length (m)	No of hooks	
Longline (e)			
	Length (m)	Depth (m)	
Gillnet/Trammel net (f)			
Other (specify)			

MAIN SPECIES FISHED (please enter name or number) (10)

--	--

Please enter in the adjacent diagram the TOTAL NUMBER OF FISHING DAYS in each box (11)

--

TOTAL CATCH KG (Weight of all fish on board) (12)

--

Appendix 4.1

DAILY CATCH REPORT
(for all shrimp vessels)

INSTITUTO DE INVESTIGAÇÃO PESQUEIRA

Haul	(13)	No	No	No	No	No
Date	(14)					
Latitude	(15)					
Longitude	(16)					
Sounding (m)	(17)					
Duration	(18)					
Total catches (kg)	(19)					

1. Gamba					
2. Alistado					
3. Carabineiro					
4. Lagostinho					
5. Caranguejo					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					

NB: See figure annexed for confirmation of the common name of the species in your language.

Total of processed fish (kg)

Species	Nobbed	Other

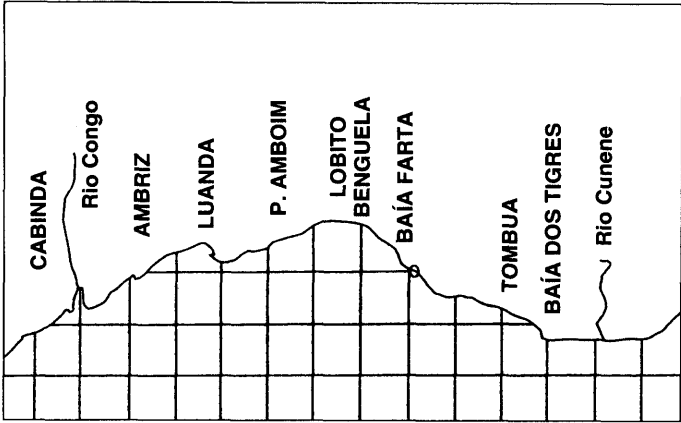
Discards

[illegible]

Appendix 4.2

TRIP

Radio call signal (1)			Departure (6)	Arrival (7)
Registration (2)			Date	
Name of the vessel (3)			Port	
Nationality (4)			Skipper's name and signature (8)	
Owner (5)				



FISHING GEAR (Record the dimensions) (9)

Gear	Headline (m) (g)	Footrope (m)	Codend mesh size (mm)
Demersal trawl (a)			
Pelagic trawl (b)			
Shrimp trawl (c)			
	Floatline	Depth (m)	
Seine (d)			
	Length (m)	No of hooks	
Longline (e)			
	Length (m)	Depth (m)	
Gillnet/Trammel net (f)			
Other (specify)			

MAIN SPECIES FISHED (please enter name or number) (10)

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Please enter in the adjacent diagram the TOTAL NUMBER OF FISHING DAYS in each box (11)

TOTAL CATCH KG (Weight of all fish on board) (12)

IIIP
MINISTÉRIO DAS PESCAS

Appendix 5
DIÁRIO DE PESCA PARA ATUNEIRO
(TUNA BOATS FISHING LOG BOOK)

MODALIDADE DE PESCA (FISHING METHOD)
☐ PALANGRE (LONGLINE)
☐ ISCO VIVO (BAITBOAT)
☐ REDE DE CERCO (PURSE SEINE)
☐ CORRICO (TROLL) (TROLLING)
☐ OUTROS (OTHERS)

NOME DO NAVIO: (VESSEL NAME)	TONELAGEM ARQUEAÇÃO BRUTA: (GROSS TONS)	MÊS (MONTH)	DIA (DAY)	ANO (YEAR)	PORTO (PORT)	☐ ISCO VIVO (BAITBOAT) ☐ REDE DE CERCO (PURSE SEINE) ☐ CORRICO (TROL) (TROLLING) ☐ OUTROS (OTHERS)
NACIONALIDADE: (FLAG COUNTRY)	CAPACIDADE (TM): (CAPACITY - TM)	SAÍDA: (BOAT LEFT)				
NÚMERO DE REGISTO: (REGISTRATION No)	CAPITÃO ou MESTRE: (CAPTAIN)	CHEGADA: (BOAT RETURNED)				
ARMADOR ou AFRETTADOR: (COMPANY or OWNER)	Nº DE TRIPULANTES: (No of CREW)	Nº DE DIAS DE PESCA: (No of fishing days)			Nº DE VIAGEM: (TRIP NUMBER)	
ENDEREÇO: (ADDRESS)	DATA DE COMUNICAÇÃO: (REPORTING DATE)	Nº DE DIAS NO MAR: (No of DAYS AT SEA)				
	COMUNICADO POR: (REPORTED BY)					

[illegible]

1 - No fim de cada viagem enviar uma cópia do Diário de Pesca ao Ministério das Pescas. (At the end of each trip forward a copy of the log to Ministry of Fisheries).	2 - «AREA» significa a posição da operação, com arredondamento dos minutos e registando graus de latitude e longitude (Fishing area refers to the position of the set. Round off minutes and record degrees of latitude and longitude).	3 - A última linha «Quantidade descarregada» deve ser preenchida só no fim da viagem. Deve ser registado o peso real na altura da descarga. (The bottom line «landing weight» should be completed only at the end of the trip. Actual weight at the time of unloading should be recorded).	4 - Toda a informação aqui registada será mantida estritamente confidencial. (All information reported herein will be kept strictly confidential).
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PROTOCOL

establishing the fishing opportunities and the financial contribution provided for in the Agreement between the European Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off the coast of São Tomé e Príncipe for the period 1 June 1996 to 31 May 1999 ⁽¹⁾

Article 1

For the period of three years from 1 June 1996, the fishing rights granted pursuant to Article 2 of the Agreement shall be 37 freezer tuna seiners, seven pole-and-line tuna vessels and 25 surface long-liners.

Article 2

1. The financial compensation referred to in Article 6 of the Agreement shall be, for the period referred to in Article 1, ECU 1 800 000, payable in three equal annual instalments. That amount shall cover an annual catch of 9 000 tonnes in São Tomé e Príncipe waters. If the tuna caught by Community vessels in São Tomé e Príncipe waters exceeds that weight, the abovementioned amount shall be increased by ECU 50 for each additional tonne caught.

2. The use to which this compensation is put shall be the sole responsibility of the Government of the Democratic Republic of São Tomé e Príncipe. It shall be paid into an account with the National Bank of São Tomé e Príncipe.

Article 3

1. In addition to the amount referred to in Article 2, the Community shall finance, during the period referred to in Article 1, scientific and technical programmes to improve biological and fishery resource information as regards the exclusive economic zone of São Tomé e Príncipe up to an amount of ECU 187 500.

2. These programmes shall be drawn up jointly by the competent authorities of São Tomé e Príncipe and the Community, which will, if necessary, participate in their implementation. Once the content of the programmes has been approved, they shall be financed by payments into an account indicated by the competent authorities of São Tomé e Príncipe.

3. The competent authorities of São Tomé e Príncipe shall send to the Commission of the European Communities a report on the implementation of the approved programmes and the results obtained. The Commission of the European Communities reserves the right to request any further scientific information from the authorities of São Tomé e Príncipe.

Article 4

1. The two Parties agree that improving the skills and knowledge of those involved in sea fishing is a vital element in the success of their cooperation. To that end, the Community shall, in addition to the amount referred to in Article 2:

- (a) make it easier for nationals of São Tomé e Príncipe to find places in establishments in its Member States and shall provide for that purpose awards for study and practical training in the various scientific, technical and economic disciplines relating to fisheries. These awards may also be used up to an amount of ECU 35 000 in any State linked to the Community by a Cooperation Agreement;
- (b) cover São Tomé e Príncipe's participation in the Regional Fisheries Committee for the Gulf of Guinea and ICCAT up to an amount of ECU 90 000;
- (c) bear the costs of participation in international meetings or training courses on fisheries up to an amount of ECU 62 500.

2. These sums shall be paid into the account indicated by the Ministry of Agriculture and Fisheries in three equal annual instalments. That Ministry shall manage all the measures financed in this way referred to in paragraph 1 and shall submit to the Commission a detailed report on the use made of these funds.

Article 5

Should the Community fail to make the payments provided for in Articles 2 and 3, the application of this Protocol may be suspended.

⁽¹⁾ See Decision 96/623/EC (OJ No L 279, 31. 10. 1996, p. 30).

Article 6

The Annex to the Agreement between the European Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off the coast of São Tomé e Príncipe is hereby repealed and replaced by the Annex to this Protocol.

Article 7

This Protocol shall enter into force on the date on which it is signed.

It shall apply from 1 June 1996.

ANNEX

Conditions for the exercise of fishing activities by Community vessels in São Tomé e Príncipe fishing zone

1. The procedure for applications for, and issue of, the licences referred to in Article 4 of the Agreement shall be as follows:

The relevant Community authorities shall present to the Ministry of Agriculture and Fisheries of São Tomé e Príncipe, via the Commission Delegation responsible for São Tomé e Príncipe, an application for each vessel that wishes to fish under the Agreement, as least 20 days before the date of commencement of the period of validity requested.

The applications shall be made on the forms provided for that purpose by the Government of the Democratic Republic of São Tomé e Príncipe, a specimen of which is attached hereto (Appendix 1).

Licences shall be issued by the São Tomé e Príncipe authorities within 20 days of submission of the application to the shipowners or their representatives via the Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe.

Licences shall be issued for a specific vessel and shall not be transferable. However, at the request of the Commission of the European Communities, a vessel's licence may, and where *force majeure* is proved, shall, be replaced by a new licence for another vessel whose features are similar to those of the first vessel. The owner of the first vessel shall return the cancelled licence to the Ministry of Agriculture and Fisheries of São Tomé e Príncipe via the Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe.

The new licence shall indicate:

- the date of issue,
- the fact that this licence replaces that of the first vessel, for the period of validity remaining.

In this case, no new lump sum as laid down in paragraph 5 shall be due.

The licence must be on board at all times; however, on receipt of notification of payment of the advance sent to the São Tomé e Príncipe authorities by the European Commission, the vessel shall be entered on a list of vessels authorized to fish, which shall be sent to the São Tomé e Príncipe authorities responsibilities for fisheries inspection. Pending receipt of the licence, a copy may be obtained by fax and should be kept on board.

2. Licences shall be valid for one year and shall be renewable.
3. The fees provided for in Article 4 of the Agreement shall be set at ECU 20 per tonne caught in São Tomé e Príncipe fishing zone.
4. The competent authorities of São Tomé e Príncipe shall indicate the detailed rules for payment of the fees, in particular the bank accounts and currencies to be used.
5. Licences shall be issued following payment to the National Bank of São Tomé e Príncipe of a lump sum of ECU 3 000 for each freezer tuna seiner per year and ECU 500 for each pole-and-line tuna vessel or surface long-liner per year, equivalent to the fees for:
 - 150 tonnes of tuna caught per freezer tuna seiner per year,
 - 25 tonnes of tuna caught per pole-and-line tuna vessel or surface long-liner per year.

6. A fishing log in accordance with the ICCAT model in Annex 2 shall be kept on vessels for each fishing period spent in São Tomé e Príncipe's waters. It shall be filled in even when no catches are made.

The words 'Outside São Tomé e Príncipe's EEZ' shall be entered in the abovementioned log-book in respect of periods during which the said vessels are not in São Tomé e Príncipe waters.

The log-books referred to in this paragraph shall be sent to the Ministry of Agriculture and Fisheries within 15 working days of vessels arriving in a port.

Copies of these documents shall be sent to the scientific institutes referred to in the third subparagraph of paragraph 7 below and to the Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe.

7. The São Tomé e Príncipe authorities shall draw up the statement of fees due for the past calendar year on the basis of the catch declarations for each Community vessel and of any other information in their possession.

The previous year's statement shall reach the Commission by 31 March which shall forward it simultaneously to the shipowners and national authorities of the Member States concerned by 15 April.

Where the shipowners dispute the statement presented by São Tomé e Príncipe they may request the relevant scientific institutes, e.g. France's Institut de la Recherche Scientifique at Technique d'Outre-Mer (ORSTOM) and the Instituto Español de Oceanografía (IEO), to verify the catch data before consulting with the São Tomé e Príncipe authorities with a view to drawing up the final statement by 15 May of the current year. In the absence of any observations from the shipowners by that date, the statement drawn up by the São Tomé e Príncipe authorities shall be deemed final. Member States shall forward to the Commission the final statements relating to their own fleets.

Any payment due in addition to the advance shall be made by the shipowners to the National Bank of São Tomé e Príncipe no later than 31 May of that year.

However, if the amount of the final statement is lower than the advance referred to in paragraph 5, the resulting balance shall not be reimbursable to the shipowner.

8. Within three hours of entering or leaving the zone and every three days during their fishing activities in São Tomé e Príncipe's waters, vessels shall be obliged to communicate their position and the volume of the catch on board direct to the São Tomé e Príncipe authorities preferably by fax or, failing that, by radio in the case of vessels not equipped with fax.

The fax number and radio frequency shall be notified on issue of the licence.

A copy of the fax messages or of the record of radio communications shall be kept by the São Tomé e Príncipe authorities and the shipowners until both parties have approved the final statement of fees referred to in paragraph 7.

A vessel caught fishing without having notified the São Tomé e Príncipe authorities of its presence shall be considered an unlicensed vessel.

9. Tuna seiners shall endeavour to make any by-catches available to the São Tomé e Príncipe authorities at prices fixed by mutual agreement.
10. Vessels shall allow on board observers at the request of the authorities of São Tomé e Príncipe. Observers must not remain on board for longer than needed to carry out spot checks on the catch. The master of the vessel shall take all necessary steps to facilitate the task of the observers on board. The salary and the social security contributions of the observer shall be borne by the competent authorities of São Tomé e Príncipe. Should the observer be taken on board in a foreign port, his travelling costs shall be borne by the shipowner. Should a vessel with an observer from São Tomé e Príncipe on board leave the São Tomé e Príncipe fishing zone, all measures must be taken to ensure the observer's return to São Tomé e Príncipe as soon as possible at the expense of the shipowner.

At the request of the authorities of São Tomé e Príncipe, owners of tuna fishing vessels shall endeavour to sign on three São Tomé e Príncipe seamen for all the Community tuna seiners, all such seamen to be assigned to different vessels. The conditions of employment and remuneration shall be fixed by mutual agreement between the shipowners and representatives of the seamen.

11. The international standards on tuna fishing as recommended by ICCAT shall apply.
12. The Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe shall be notified within 48 hours of any boarding within São Tomé e Príncipe's fishing zone of a fishing vessel flying the flag of a Member State of the Community and operating under this Agreement.

A brief report of the circumstances and reasons leading to the boarding shall be submitted within 72 hours.

Appendix 1

DEMOCRATIC REPUBLIC OF SÃO TOMÉ E PRÍNCIPE

MINISTRY OF AGRICULTURE AND FISHERIES

FISHING LICENCE APPLICATION No ...

Name of applicant:
Address of applicant:
.....
Name and address of shipowner:
.....
Name and address of any representative in São Tomé e Príncipe:
.....
Name of vessel:
Type of vessel:
Country of registration:
Port and registration number:
External identification of vessel:
Radio call sign and frequency:
Length of vessel:
Width of vessel:
Engine type and rating:
Hold capacity:
Minimum crew:
Type of fishing:
Species to be fished:
.....
Period of validity sought:

'I hereby certify that this information is correct and that I know and agree with and undertake to observe and enforce the laws of the Democratic Republic of São Tomé e Príncipe concerning fishing and the sea, and all applicable international legislation.'

Date:

THE APPLICANT

.....

