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II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 21 December 1989

adopting the 1989 to 1990 annual report on the economic situation in the Community and economic policy guidelines to be followed in the Community for 1990

(89/685/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 74/120/EEC of 18 February 1974 on the attainment of a high degree of convergence of the economic policies of the Member States of the European Economic Community ⁽¹⁾, as amended by Decisions 75/787/EEC ⁽²⁾ and 79/136/EEC ⁽³⁾, and in particular Article 4 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽⁴⁾,

Having regard to the opinion of the Economic and Social Committee ⁽⁵⁾,

Article 1

The 1989 to 1990 annual report, attached to this Decision, is hereby adopted as are the economic policy guidelines to be followed in the Community in 1990, set out in that report.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 21 December 1989.

For the Council

The President

E. CRESSON

⁽¹⁾ OJ No L 63, 15.3.1974, p. 16.

⁽²⁾ OJ No L 330, 24.12.1975, p. 52.

⁽³⁾ OJ No L 35, 9.2.1979, p. 8.

⁽⁴⁾ Opinion delivered on 13 December 1989 (not yet published in the Official Journal).

⁽⁵⁾ Opinion delivered on 16 November 1989 (not yet published in the Official Journal).

FACING THE CHALLENGES OF THE EARLY 1990s

ANNUAL ECONOMIC REPORT 1989 to 1990

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FACING THE CHALLENGES OF THE EARLY 1990s

INTRODUCTION

The state of the Community economy at the outset of the new decade is quite promising. Important steps are being taken towards economic, financial, monetary and social integration. Fundamental improvements which have been achieved during the 1980s are resulting in a significantly better growth and employment performance.

Unemployment is still very high, however, and levels of GDP per head are still very different throughout the Community. In addition, there is a risk that the persistence or indeed the worsening of certain negative features which have characterized the Community economy over recent years — inflation, current account imbalances and budgetary disequilibria — could endanger the continuation of the present expansion and of further progress towards monetary stability in the Community.

Economic policy in the Community faces two major challenges:

- (i) to *strengthen further the determinants of growth*;
- (ii) to *improve convergence towards stability*.

The first arises out of the need to reduce unemployment further and to ensure that the less prosperous regions continue catching up.

The second results from a double necessity; on the one hand, that of preventing a resurgence of inflationary expectations from endangering the continuation of growth; on the other, that of improving the conditions for exchange rate stability — and for the success of stage one of economic and monetary union (EMU) — by reducing divergences in inflation, in current account balances and in budgetary positions.

I. THE SHORT-TERM OUTLOOK

In the *Community*, economic growth is continuing strongly and presents, in most countries, the same healthy features of the past two years. Investment and exports remain the most dynamic components of demand while the determinants of growth continue to improve, even if more slowly than in 1988. Measures aimed at preventing overheating or at curbing excessive current account deficits are succeeding in dampening demand and output growth.

TABLE 1

The EC economy — use and supply of goods and services

(Annual percentage change)

	Average 1982 to 1984	Average 1985 to 1987	1988	1989 (**)	1990 (**)
Private consumption	1,2	3,4	3,8	3	3
Government consumption	1,6	2,2	2,0	1½	1¾
Gross fixed capital formation	-0,1	3,6	8,4	7	4¾
Domestic demand (including stocks)	1,3	3,4	4,8	3¾	3
Exports of goods and services (*)	2,6	1,8	4,9	7¼	6
Total demand	1,4	3,2	4,8	4¼	3¼
Imports of goods and services (*)	0,4	7,9	11,9	9½	5¼
GROSS DOMESTIC PRODUCT	1,6	2,6	3,8	3½	3

(*) Extra-Community trade only.

(**) Forecasts.

Real output will expand in 1990 by about 3 %. This is lower than the 3,8 % achieved in 1988 and the 3½ % likely to be recorded in 1989, but it is still higher than any of the first six years of the present period of expansion. Investment also is not expected to increase as fast as in 1988 and 1989 in response to the deceleration of demand, to the tightening of policies and to the coming on stream of the capacities created over recent years. It should, however, still grow at an average rate of almost 5 %. Exports of goods and services to the rest of the world should continue to grow strongly (more than 6 % in real terms), in line with the expected increase in world trade.

Inflation (private consumption deflator) has accelerated between mid-1988 and mid-1989 under the combined impact of higher import prices, higher wages in some countries and higher taxes and public service charges in others. Thanks to a swift reaction by monetary policy-makers and to a softening of import prices in the course of 1989, this trend now appears to have been halted. In 1990, average inflation in the Community could be reduced to about 4½ % from 5 % in 1989. This compares with a rate of just 3,6 % in 1988. The average masks the fact that rates within the Community differ widely, with certain Member States still experiencing double digit inflation.

Some of the best news keeps coming from the labour market. After the record increases of 1988 and 1989, another 1½ million jobs should be added in 1990 ⁽¹⁾. As a result, unemployment in the Community will continue to decrease and might fall below 9 %, a level still much higher than that prevailing at the beginning of the 1980s ⁽²⁾.

(1) The 'Employment in Europe' report published in June 1989 gives additional information on employment trends in the Community.

(2) Unemployed according to the EC labour force survey, which provides comparable unemployment rates for the Member States. The corresponding figure using the registered unemployment data which were used in previous annual economic reports would be about 10 %.

Also reassuring is the news on the current account of the Community which should remain in broad equilibrium. The divergence in the external positions of the Member States, however, is expected to go on increasing.

The outlook for *the rest of the OECD* is also positive and broadly similar to that for the Community, though the deceleration of growth is likely to be more pronounced. Output is forecast to expand next year by just over 2½ % against 3½ % in 1989 and 4,6 % in 1988. This reflects essentially a marked slowdown in the USA and Canada (about 2 % in 1990 in both countries against 4,4 % and 5 % respectively in 1988).

Elsewhere growth should continue more or less at the same rate as in 1989 and with the same regional differences. The Asian newly industrialized economies should again experience growth rates of about 6 %, significantly faster than in the OPEC and in Eastern Europe. Growth in the most indebted LDCs continues to be seriously constrained by the debt burden. As for the payments imbalances of the world's largest economies, the US deficit and the Japanese surplus have been reduced somewhat in 1989, but they are forecast to increase again in 1990.

II. A MUCH IMPROVED ECONOMY

The 1989 performance confirms that the Community economy is now functioning distinctly better than during most of the previous two decades. It is useful to examine what has taken place in two related areas: the expansion of investment and the creation of new jobs. The results achieved are impressive, but not yet sufficient to ensure the reduction of unemployment to more acceptable levels.

TABLE 2

The improvement of the EC economy through the 1980s

(Annual percent change, unless otherwise indicated)

	Average 1982 to 1984	Average 1985 to 1987	1988	1989 (*)	1990 (*)
GDP growth	1,6	2,6	3,6	3½	3
Employment	-0,5	0,8	1,6	1½	1
Inflation (private consumption deflator)	8,7	4,4	3,6	4¾	4½
Investment	-0,1	3,6	8,4	7	4¾
— of which equipment	1,1	6,9	10,6	9¼	6
Capital stock	2,3	2,3	2,6	2¾	3
Real unit labour costs (1961 to 1973 = 100)	101,7	98,3	96,8	96,1	95,7
Profitability (1961 to 1973 = 100)	68,0	78,0	84,1	86,2	87,6

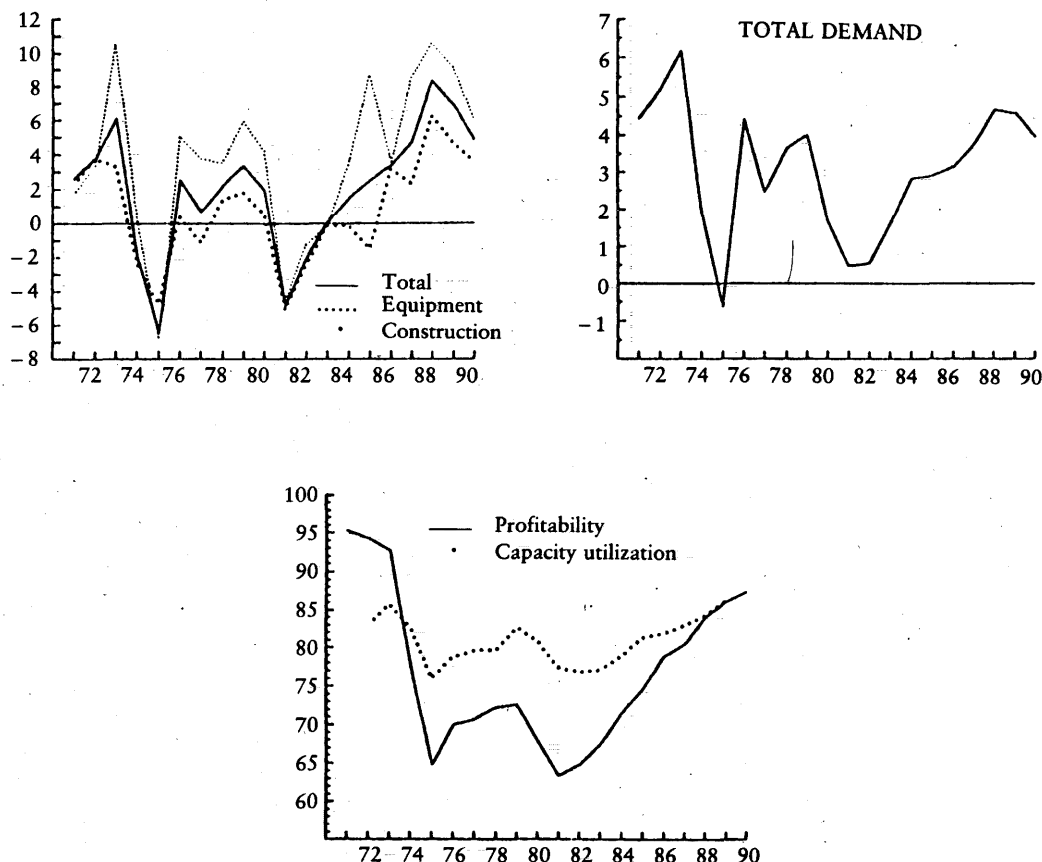
(*) Forecasts.

Growth has become investment-led

In the second half of the 1980s the Community moved to investment-led growth. The amount of investment in equipment by Community firms in 1989 will exceed the 1986 figure by one-third. This impressive investment performance became possible because, in the Community as a whole, the profitability of the capital stock has recovered steadily since 1981. The moderate increases in real wages compared with productivity growth have been the major reason for the recovery of the rate of return on productive capital, but declining energy prices and a recovering capital productivity have also helped. When, in the second half of the 1980s, final demand began to strengthen and Community policies — the internal market programme — began delivering additional impulses, firms were in a position to exploit fully the opportunities available.

Chart 1

Investment and some of its determinants



Among the less prosperous countries, Spain, Portugal and, more recently, Ireland have experienced a rapid growth of investment. This has been made possible by a substantial wage adjustment and the consequent increase in profitability. The resulting significant increase in the share of investment in GDP (financed largely by imports of capital in Spain and Portugal) has contributed to faster growth of GDP per head than in the rest of the Community. In the case of Spain and Portugal, joining the Community has provided an additional and substantial impulse. Fundamental structural adjustments are still required in Greece, if it is to catch up on the rest of the Community. In particular, the necessary increase in investment will require a substantial adjustment of real unit labour costs.

The sustainability of the investment performance in the Community has also been facilitated by the simultaneous rise in the national savings ratio. This has permitted investment to accelerate while overall external equilibrium has been maintained. The rise in the national savings ratio has been largely due to a reduction in government dissaving: in 1989 government saving has become positive again after declining to -1,3% of GDP in 1981 from +5% in 1970.

Despite the remarkable improvement over the 1980s, however, the profitability of fixed capital and the share of investment in GDP are still below the levels of the quasi-full employment 1960s.

... and more employment-creating,

With faster economic growth, job creation has speeded up. At the same time the employment content of growth has increased substantially. In the 1960s, annual GDP growth of 4,8% barely created 0,3% of new employment. Today, a GDP growth trend of slightly above 3% is accompanied by net

annual employment expansion of more than 1 %. This result is due to various factors: the change in the trend of relative factor costs, the greater flexibility of working practices, the reduction of working hours per person employed, the extension of part-time employment, the steady expansion of the service sector and measures to improve the adaptability of the labour market.

Notwithstanding the favourable employment trend, unemployment has declined only slowly. In 1990, the Community average will still be about 9 % with significant differences among Member States. Youth unemployment is still particularly high, although it has improved considerably in recent years. The increase in long-term unemployment appears to have been halted. With employment now increasing rapidly, a more determined use of specific measures (vocational education and training) would be most effective in reducing this type of unemployment.

... but more is necessary.

A significant reduction in unemployment over an acceptable time span requires yearly increases in employment of at least 1½ %. On present trends, such increases could be attained with rates of economic growth of about 3½ %. This was the pattern aimed at in the 'cooperative growth strategy for more employment'. Developments in 1988 and 1989 have corresponded almost exactly to such a pattern. To repeat fully these very good performances in the immediate future will be difficult, however, because of the need to curb the growing macro-economic disequilibria before they begin to affect adversely the determinants of growth.

Thus, a further improvement in the determinants of growth and in the functioning of the economy is needed to place the Community economy on the sustainable medium-term growth path that can produce the required employment increases and make possible a lasting catching up by the less prosperous countries. To this end the Community has since 1985 developed a coherent policy approach.

The completion of the internal market, which is creating a new dynamism, is becoming an important engine of growth and a greater potential. To realize fully this potential, growth and employment policies along the lines indicated in the annual economic reports of recent years must be continued in all Member States and especially in those where GDP per head is lowest and the long-term growth potential is highest; in these countries Community aid and regional and social policies will support the catching up process. The full implementation throughout the Community of the social dimension principles would considerably strengthen its economic and social cohesion. Such a comprehensive policy approach would facilitate progress towards EMU.

The stronger and more balanced growth that could become possible in the next decade must be made compatible with increased environmental protection. The extra resources generated by stronger growth could moreover provide the means for an active policy to tackle the environmental problems.

III. IMPROVING CONVERGENCE TOWARDS STABILITY

The present favourable trends (faster growth, higher employment and the real convergence resulting from the catching up process) can be maintained only if inflationary expectations are controlled and excessive balance of payments disequilibria and budgetary deficits are reduced. In addition, the first stage of economic and monetary union, starting next year, will require greater nominal convergence. This means convergence towards the best results in terms of price and cost developments, which is possible only if current account and budgetary balances are compatible with internal and external stability.

Convergence of economic performances in the Community still needs to be substantially improved even if it is now much better than at the beginning of the 1980s. The narrow band countries of the

EMS ⁽¹⁾ form a group in which the present degree of price convergence and monetary cohesion, despite the recent acceleration of inflation, is broadly satisfactory. In these countries, the priority during the first stage of EMU should be to win back the ground lost and subsequently to maintain this result. In the other countries, economic convergence towards the better performing Member States still appears a distant objective, and determined efforts will be required. In these countries inflation is still very high and large budget deficits and/or high nominal wage increases are interfering with stability-oriented monetary policies.

Resume progress towards price stability

Between mid-1988 and mid-1989, the Community lost some of the ground it had won during the 1980s in the fight against inflation. It is important that this loss be made good before inflationary expectations build up once more. The sooner this is done, the lower will be the price paid in terms of lost growth and employment. The Community has shown that it can successfully reduce inflation even when the external environment seems to be unfavourable: the halving of inflation between 1980 (13 %) and 1985 (6 %) occurred despite depreciating European currencies and consequently higher import prices.

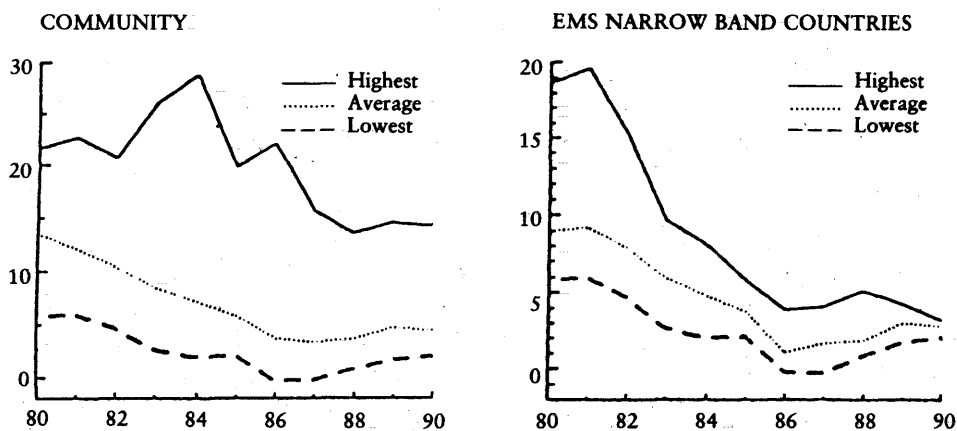
It is particularly urgent to reduce inflation where it is widely out of line with the rest of the Community. In Portugal, Greece and, to a lesser extent, in the United Kingdom, Spain and Italy inflation is still too high. This is not consistent with exchange rate stability over the longer term.

Monetary policies have been tightened as was necessary, but the other policies are not contributing enough.

Chart 2

EC price convergence

(Private consumption deflator)



If the convergence of costs and prices towards stability is not achieved quickly enough, the cumulative losses of competitiveness and the resulting current account disequilibria will continue to increase. This would lead to either a widening of interest rate differentials or exchange rate pressures. The former would be painful in terms of foregone investment and growth; the latter would create risks for exchange rate stability.

In the United Kingdom the economy is undergoing an adjustment aimed at curbing inflation which should also reduce the country's external deficit. However, the longer it takes to reduce wage increases — unit labour costs for the whole of the economy are rising significantly faster than the average for the rest of the Community — the greater will be the adverse effect on profits and the risk of thwarting future investment, growth and employment. There are signs that in Spain and Italy the conflict

⁽¹⁾ Belgium, Denmark, France, Federal Republic of Germany, Ireland, Luxembourg, the Netherlands.

between the need to keep inflation under control via monetary policy and wage increases which are too high is already taking its toll on the current account balance.

Achieving a better pattern of current account positions

The growing financial and monetary integration of the Community makes it possible to finance higher current account imbalances than in the past. Indeed, one would expect that the movement of capital towards the most productive uses would result in an intra-Community pattern of substantial current account imbalances. To the extent that the surpluses find their counterpart in the deficit of the less favoured countries, the imbalances can be seen as contributing to the catching-up process of the latter where there is a need for increasing investment.

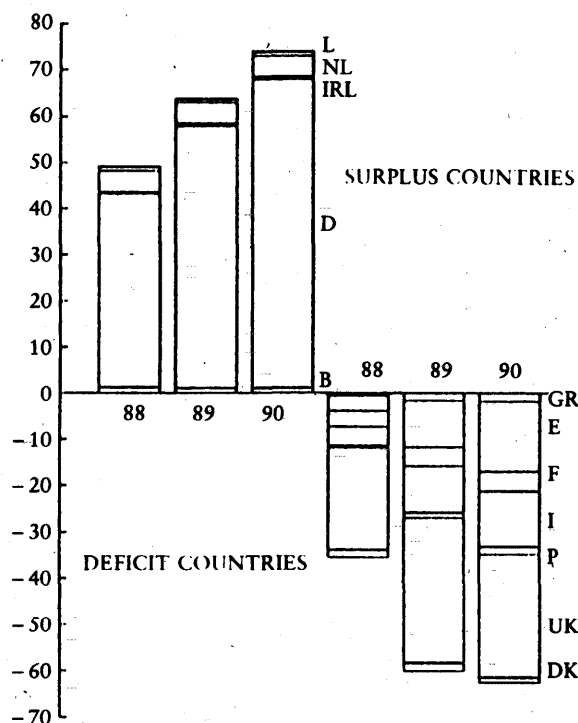
The sum of the current account deficits of Spain, Portugal and Greece (Ireland is experiencing a modest surplus which is not inappropriate given the level of its outstanding foreign debt) in 1989, however, is equivalent to about 1¼ % of the GDP of Germany, i.e. the combined deficits of these countries 'explain' less than one-quarter of the German surplus.

The exceptionally high level of the German surplus, which could exceed in 1990 5 % of GDP, may call into question exchange rate stability in the Community.

The counterpart of the German surplus is found largely within the Community, in the United Kingdom, Italy, Greece, Spain and Portugal, where domestic demand has grown faster than supply for some time. The below-potential growth expected in the United Kingdom next year should help to reduce somewhat the current account deficit from its 1989 level. A significantly slower growth of unit labour costs than is forecast would also help in this context.

Chart 3

Current account balances
(in thousands of millions of ecus)



The deficit of Greece is worrying both for the speed of its deterioration and for its origin, which lies essentially in a lack of competitiveness of the exporting sectors. This results from wage increases which are too high relative to productivity and to excessive public finance deficits. The deficits of Spain and Portugal, to the extent that they are due to a rapid increase in imports of investment goods

and are financed by long-term capital, are in line with the development pattern expected in countries that are catching up. They have reached a point, however, where additional deterioration would force the authorities to intervene further to correct them. If the deficit is not reduced by raising exports or lowering imports of consumption goods, the continued expansion of investment that these countries need might be impeded.

Denmark is already experiencing a period of slow growth necessary to bring the current account to a position which will make the substantial external debt accumulated over many years more manageable. A continuation of the wage moderation of the last few years is necessary to improve the price competitiveness of Danish exports.

Budgetary policies should contribute more to growth and stability

In many countries budgetary policies are not helping sufficiently to create conditions favourable to healthy economic growth. Budget deficits and public debt to GDP ratios are still very high and increasing in Greece, Italy and Portugal. In Belgium, Ireland and, to a lesser extent, in the Netherlands budget consolidation needs to be continued. These countries should exploit better the present strength of economic growth to reduce their budgetary imbalances.

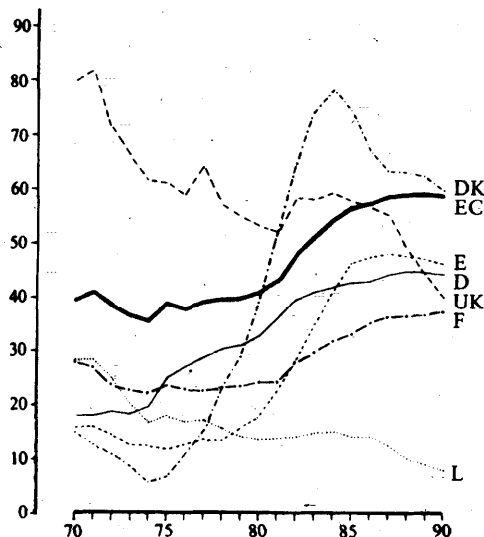
The situation is particularly serious in Greece, Italy and Portugal. In these countries excessive public expenditure is one of the main explanations of the still high levels of inflation and of the balance of payments problems.

The stronger coordination in the Community that will be required for the first stage of economic and monetary union could help reorient budgetary policies towards supporting growth and contributing to greater nominal convergence. Such coordination is also necessary to take into account the implications of policies defined at the Community level. Since they have to match Community funding, the recipient countries must free the resources needed to keep pace with rapidly increasing payments from the Structural Funds. Strengthened coordination could evolve around two complementary approaches.

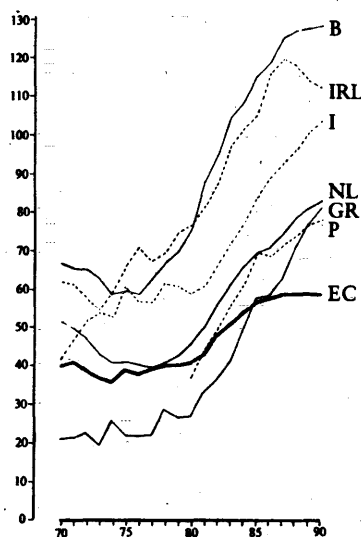
Chart 4

Trend of gross public debt, as % of GDP

(a) Countries with public debt below or very close to the Community average in 1988



(b) Countries with high public debt in 1988



Firstly, budgetary policy has to be conducted in a medium-term perspective and must create conditions favourable to healthy economic growth as well as facilitating the task of stability-oriented monetary policy. This implies the application of four medium-term rules of behaviour leading to sound public finances and on which a certain consensus has emerged in the Community:

- the non-monetary financing of public deficits,
- the stabilization and reduction of public debt,
- the avoidance of the negative effects on economic conditions of an increase in public expenditure and
- the search for an expenditure and receipts structure more favourable to supply conditions.

Secondly, in the framework of the overall medium-term economic policy mix, budgetary policy must contribute, as far as possible, to the reduction of existing or to the avoidance of future fundamental disequilibria which could eventually lead to exchange rate changes and create difficulties for the process of EMU.

IV. ENSURE FAVOURABLE PROSPECTS FOR THE 1990s

The two economic policy challenges facing the Community — *strengthening further the determinants of growth and improving convergence towards stability* — require a determined effort.

The reinforcement of the determinants of growth requires above all that the structural policies which have been implemented over the last decade must continue to be applied. In this area there is a marked complementarity between national and Community policies. Efforts undertaken at the national level are receiving and will continue to receive considerable support from the rapid implementation of the Community policies.

Control of the growing macro-economic disequilibria is essentially, but not uniquely, a task for macro-economic policies implemented by each individual Member State. Their effectiveness will be greatly enhanced by strengthened coordination at the Community level.

IV.1. COMMON POLICIES

The suppression of all frontiers for products and factors of production aimed at in the White Paper and the broader Community policies are increasingly being integrated with a set of structural reforms at the level of the Member States. The opening of frontiers will increase competition and the ability to achieve economic gains through greater efficiency and specialization in production and increases in consumer choice. This process will result in an improvement in productivity which would allow investment, output and employment to expand substantially without giving rise to inflationary pressures.

The Single European Act embodies the political decision to develop the different policy functions (internal market, competition policy, R&D and technology, social policy, Structural Funds and cohesion, environmental policy etc.) in an integrated manner. The sum of these national and Community actions will secure a lasting improvement in the macro-economic performance.

The completion of the *internal market* is proceeding rapidly. High expectations have been created which must not be disappointed. The Commission has drafted more than 90 % of the planned proposals and by the end of 1989 almost all will have been tabled at the Council. In finally approving some 130 directives and regulations and agreeing on 15 partial approvals or common positions, the Council has completed more than 50 % of the programme. Governments must step up the introduction of these decisions into their national legislation if the decision-making process is not to be perceived as losing momentum. Otherwise the expectations created would be disappointed and this would adversely affect investment, growth and employment.

The 1992 programme is being bolstered and in some cases anticipated by measures taken at national level (see box). This interacts with structural adjustment measures which Member States have been implementing for years. This process of complex structural reforms is self reinforcing as competition is not limited to the market place, but also extends to the services provided by governments and the environment offered to firms.

There is growing evidence (the latest comes from an *ad hoc* survey organized by the Commission) to show that firms expect the completion of the internal market to have profound consequences for their activity in the run up to 1992 and beyond. Firms are already incorporating new market-enlarging horizons into their business strategies, and a sizeable share of the faster rate of growth of investment may be attributed to their adaptation to an increasingly competitive environment.

NATIONAL STRUCTURAL ADJUSTMENT INITIATIVES

TAX CHANGES

Tax reforms have been adopted or announced by all Member States. All involve simplifying the existing system and most entail reducing personal and corporate taxation.

Several Member States have taken steps towards harmonization. France is progressively lowering VAT, Italy has raised its lowest rates, and the Netherlands has reduced the higher rate and abandoned plans to raise the lower rates. Increases in excise duties have been implemented or are planned in Belgium and Italy and reductions are envisaged in Denmark. France's 1990 budget includes measures to reduce the incidence of tax on investment income, bringing it nearer to the EC average.

REGULATORY REFORM

Goods and services: Administered prices have been eliminated in France and are being phased out in those countries that still retain them (Greece, Spain, Portugal). In Germany the Federal Government has adopted a law to restructure the post office which will break up the federal post's monopoly in the market for telecommunication hardware for final users.

Financial markets: In Greece and Portugal the process of shifting away from interest rates administered by the central bank and towards market-determined rates is underway. Spain is proceeding with modernization of financial markets. In Ireland changes have been made in both the regulatory system and the financial markets. In Belgium changes are envisaged that will bring the regulatory framework and the structure of markets and institutions more into line with those of other European financial centres.

Exchange controls: In France and Italy the final stages of removing controls will be completed by July 1990. Ireland substantially relaxed controls at the end of 1988. Greece, Spain and Portugal, whose deadlines for liberalizing capital movements are later than for the rest of the Community, are all moving to dismantle exchange controls.

The dynamism resulting from the progressive opening of the internal market implies an acceleration of the normal economic adjustment process. This could be slowed down, or indeed prevented from taking place, by various measures and practices aimed either at directly reducing competition or at avoiding its effects (agreements sharing markets among companies, increased state subsidies, etc.). To achieve the aims of the internal market programme it is important that an effective *competition policy* accompanies the progressive removal of barriers.

Nevertheless accelerated sectoral adjustments might be particularly painful and involve job losses in certain sensitive sectors. At the macro-economic level, the positive employment effects of the completion of the internal market might be delayed. The stronger is overall economic growth, however, the greater are the chances that the job losses in certain sectors will be more than offset by simultaneous job creation elsewhere. Nevertheless, sectoral and regional adjustments will have to be closely monitored and, if necessary, their social impact will have to be cushioned.

IV.2. COORDINATION OF NATIONAL MACRO-ECONOMIC POLICIES

The creation of the internal market is increasing the economic interdependence between the Member States and progressively reducing the scope for independent policy action. The liberalization of capital movement and the approximation of indirect taxes, to mention just two important elements of the internal market programme, will exert a profound influence on policy-making at the national level.

The greater convergence towards stability needed to ensure the continuation of growth and progress towards economic and monetary union requires a determined action from individual Member States and a more effective coordination between them. Coordination of economic policies within the Community has never been an easy task. Since the early 1980s, however, progress has been made in this area as well and coordination has become much more effective.

Economic policy coordination cannot be successfully achieved through a centralized decision-making procedure with obligations imposed on Member States. Instead a system of multilateral surveillance should be developed in which objectives are progressively set in common and Member States take full account of the interaction between their economies within the Community in setting their own policies.

The recent increase in official lending rates in many Community countries is a clear example of the level of economic and monetary interdependence, not only between EMS narrow band Member States, but throughout the Community. In a learning-by-doing process, Member States should reach a broad consensus on the fundamental policy approach to achieve the main objectives of economic and monetary policy indicated in the Treaty such as growth, price stability and a high level of employment.

MAIN ECONOMIC INDICATORS 1986 TO 1990

COMMUNITY, USA AND JAPAN

(a) GDP at constant prices

(% change on previous year ⁽¹⁾)

	1986	1987	1988	1989 (*)	1990 (*)
B	1,9	2,0	4,0	4 1/4	3 1/4
DK	3,3	-1,0	-0,4	1 3/4	2
D	2,3	1,9	3,7	3 3/4	3 1/2
GR	1,2	-0,4	4,0	2 1/2	2 1/4
E	3,3	5,5	5,0	4 3/4	4
F	2,1	2,2	3,4	3 1/4	3 1/4
IRL	-0,4	4,1	3,7	5	4 1/2
I	2,9	3,1	3,9	3 1/2	3
L	4,7	2,5	5,2	3 3/4	3 1/4
NL	2,1	1,3	2,8	3 3/4	3
P	4,3	4,7	3,9	4 3/4	4 1/2
UK	3,1	3,8	4,2	2 1/4	2
EC	2,6	2,8	3,8	3 1/2	3
USA	3,0	3,6	4,4	2 3/4	2
JAP	2,4	4,3	5,8	4 3/4	4 1/4

(b) Domestic demand at constant prices

(% change on previous year)

	1986	1987	1988	1989 (*)	1990 (*)
B	3,0	3,4	4,0	4 1/2	3 1/4
DK	5,4	-3,2	-2,2	3/4	1
D	3,5	3,2	3,8	2 3/4	3
GR	-1,8	-1,8	3,5	3 1/2	2 3/4
E	6,1	8,5	6,7	6 3/4	5 1/4
F	3,9	3,3	3,8	3 1/4	3 1/4
IRL	1,4	-1,5	0,2	5	4 1/4
I	3,6	4,8	4,3	4	3 3/4
L	2,3	2,5	4,6	3 1/4	3
NL	3,5	2,1	2,3	4 1/4	2 3/4
P	8,4	10,6	8,3	5 1/2	5
UK	3,8	4,3	7,3	3 3/4	3/4
EC	3,9	4,0	4,8	3 3/4	3
USA	3,7	3,0	3,3	2 1/4	1 3/4
JAP	4,0	5,1	7,8	5 1/2	4 1/4

(c) Deflator of private consumption

(% change on previous year)

	1986	1987	1988	1989 (*)	1990 (*)
B	0,4	2,2	1,2	3 1/4	3 1/2
DK	3,4	4,1	4,9	4 3/4	3
D	-0,2	0,7	1,1	3	2 3/4
GR	22,0	15,7	13,9	14 1/4	15
E	8,7	5,4	5,1	6 3/4	6 1/4
F	2,7	3,1	2,7	3 1/2	2 3/4
IRL	3,9	3,1	2,5	4 1/4	4
I	5,8	4,8	4,9	6 1/4	6
L	0,8	2,9	1,5	3 1/4	3
NL	0,6	-0,3	0,8	1 1/2	2 1/4
P	13,5	10,2	9,6	13	11 1/4
UK	4,4	3,9	5,0	5 1/4	5 1/2
EC	3,8	3,4	3,6	4 3/4	4 1/2
USA	2,2	4,2	4,0	4 3/4	4 3/4
JAP	0,5	-0,1	0	2	2 3/4

(d) Balance on current transactions

(as a % of GDP ⁽¹⁾)

	1986	1987	1988	1989 (*)	1990 (*)
B	2,0	1,2	1,0	3/4	3/4
DK	-5,2	-3,0	-1,8	-2	-1
D	4,4	3,9	4,1	5 1/4	5 3/4
GR	-5,2	-2,5	-1,5	-3 1/2	-3 1/2
E	1,7	0,1	-1,1	-3	-4
F	0,5	-0,4	-0,4	- 1/2	- 1/2
IRL	-2,9	1,4	2,0	2	1 3/4
I	0,5	-0,1	-0,6	-1 1/4	-1 1/2
L	39,4	33,0	16,4	15	14 1/2
NL	2,8	1,6	2,4	2 1/4	2
P	3,9	1,8	-1,4	-2 3/4	-3 1/2
UK	-0,9	-1,6	-3,2	-4	-3 1/4
EC	1,4	0,8	0,3	0	1/4
USA	-3,4	-3,6	-2,4	-1 3/4	-1 3/4
JAP	4,3	3,7	2,8	2 1/4	2 1/2

(*) Forecasts September/October 1989.

(1) GNP for USA and Japan from 1987 onwards.

(e) Number of unemployed as % of the civilian labour force

	1986	1987	1988	1989 (*)	1990 (*)
B	11,9	11,5	10,4	9 $\frac{1}{4}$	8 $\frac{3}{4}$
DK	5,8	5,8	6,4	7 $\frac{1}{2}$	7 $\frac{1}{2}$
D	6,5	6,4	6,4	5 $\frac{1}{2}$	5 $\frac{1}{4}$
GR	8,2	8,0	8,5	8 $\frac{1}{2}$	8 $\frac{1}{2}$
E	21,2	20,5	19,6	17 $\frac{1}{2}$	16 $\frac{1}{2}$
F	10,4	10,5	10,2	9 $\frac{1}{2}$	9
IRL	18,3	18,0	17,8	16 $\frac{3}{4}$	16 $\frac{1}{4}$
I	10,6	10,1	10,6	10 $\frac{1}{2}$	10 $\frac{1}{2}$
L	2,7	2,7	2,2	1 $\frac{3}{4}$	1 $\frac{3}{4}$
NL	10,3	10,2	10,3	10	9 $\frac{1}{2}$
P	8,3	6,8	5,6	5 $\frac{1}{4}$	5 $\frac{1}{4}$
UK	11,5	10,6	8,7	6 $\frac{3}{4}$	6 $\frac{1}{2}$
EC	10,8	10,4	10,0	9	8 $\frac{3}{4}$
USA	6,9	6,1	5,4	5	5 $\frac{1}{4}$
JAP	2,8	2,8	2,5	2 $\frac{1}{2}$	2 $\frac{1}{2}$

(f) General government lending and borrowing
(as a % of GDP)

	1986	1987	1988	1989 (*)	1990 (*)
B	-8,8	-7,0	-6,5	-6	-5 $\frac{3}{4}$
DK	3,5	1,8	0,2	$\frac{1}{4}$	$\frac{3}{4}$
D	-1,3	-1,8	-2,1	0	- $\frac{1}{4}$
GR	-11,6	-9,9	-14,9	-20	-20
E	-6,1	-3,6	-3,2	-2 $\frac{1}{2}$	-2 $\frac{1}{2}$
F	-2,9	-2,5	-1,4	-1 $\frac{1}{4}$	-1
IRL	-11,0	-8,9	-3,7	-3 $\frac{3}{4}$	-1 $\frac{1}{2}$
I	-11,7	-11,2	-10,6	-10 $\frac{1}{4}$	-9 $\frac{3}{4}$
L	2,5	2,7	2,5	2 $\frac{1}{2}$	2 $\frac{3}{4}$
NL	-5,9	-6,2	-4,9	-4 $\frac{1}{2}$	-4 $\frac{1}{4}$
P	-7,8	-7,0	-6,5	-6	-6
UK	-2,4	-1,5	0,8	1 $\frac{1}{2}$	1
EC	-4,8	-4,3	-3,6	-3	-3
USA	-4,4	-2,3	-2,0	-1 $\frac{3}{4}$	-1 $\frac{1}{2}$
JAP	-1,1	-0,3	1,2	1 $\frac{3}{4}$	2

(g) Total employment
(annual percentage change)

	1986	1987	1988	1989 (*)	1990 (*)
B	1,0	0,4	1,4	1	$\frac{1}{2}$
DK	2,3	1,1	-0,3	- $\frac{1}{2}$	$\frac{1}{2}$
D	1,0	0,7	0,6	1 $\frac{1}{2}$	1 $\frac{1}{4}$
GR	0,3	-0,1	1,1	$\frac{3}{4}$	$\frac{3}{4}$
E	2,3	5,4	2,9	3 $\frac{1}{2}$	2 $\frac{1}{2}$
F	0,2	0,1	0,6	1 $\frac{1}{2}$	1 $\frac{1}{4}$
IRL	0,2	0	1,0	1 $\frac{1}{4}$	1 $\frac{1}{4}$
I	0,9	0,2	1,3	1	$\frac{1}{2}$
L	2,6	2,7	2,9	1 $\frac{3}{4}$	1 $\frac{1}{4}$
NL	1,9	1,2	1,3	1 $\frac{1}{2}$	1
P	-2,7	2,7	2,6	1 $\frac{1}{2}$	$\frac{3}{4}$
UK	0,4	1,9	3,1	1 $\frac{3}{4}$	$\frac{3}{4}$
EC	0,8	1,2	1,6	1 $\frac{1}{2}$	1
USA	1,7	2,9	2,2	2 $\frac{1}{4}$	1 $\frac{1}{2}$
JAP	0,9	1,0	1,7	1 $\frac{1}{2}$	1 $\frac{1}{4}$

(h) Real compensation of employees per head
(annual % change ⁽¹⁾)

	1986	1987	1988	1989 (*)	1990 (*)
B	3,7	-1,3	1,2	2	2 $\frac{1}{4}$
DK	1,2	4,0	-0,6	-1	$\frac{1}{4}$
D	4,1	2,2	2,0	0	$\frac{3}{4}$
GR	-7,2	-3,4	4,0	5 $\frac{1}{2}$	1
E	0,7	0,9	1,2	$\frac{3}{4}$	$\frac{3}{4}$
F	1,4	0,6	1,1	$\frac{1}{2}$	1 $\frac{1}{4}$
IRL	1,1	2,8	-0,2	$\frac{1}{2}$	1
I	1,6	4,0	3,8	2 $\frac{3}{4}$	2
L	4,4	0,9	2,5	3	3
NL	1,3	1,6	0,6	- $\frac{1}{4}$	1 $\frac{1}{4}$
P	6,0	3,1	0,9	- $\frac{3}{4}$	1 $\frac{1}{2}$
UK	2,8	3,0	2,3	2 $\frac{3}{4}$	3
EC	2,3	2,0	1,9	1 $\frac{1}{4}$	1 $\frac{1}{2}$
USA	1,1	-0,3	1,8	1	1 $\frac{1}{4}$
JAP	2,7	3,0	3,4	3 $\frac{3}{4}$	2 $\frac{1}{2}$

(*) Forecasts September/October 1989.

(1) Deflated by the deflator of private consumption.

(i) Investment in construction
(annual % change; constant prices)

	1986	1987	1988	1989 (*)	1990 (*)
B	2,0	5,5	12,0	9	3¼
DK	17,5	-0,9	-6,1	-3	1½
D	2,7	0,2	4,7	4¾	3¼
GR	0,2	-4,9	7,7	7½	6
E	6,5	10,0	13,5	14½	10¾
F	2,5	3,3	4,3	3¾	3½
IRL	-3,6	-6,5	-6,8	6	10¼
I	0,7	-1,3	3,7	4	3
L	6,0	4,6	5,4	4¼	3½
NL	4,8	2,8	12,6	4¼	½
P	8,7	10,5	12,3	11½	11
UK	3,7	3,9	6,5	-1½	-1
EC	3,2	2,4	6,3	4¾	3½

(j) Investment in equipment
(annual % change; constant prices)

	1986	1987	1988	1989 (*)	1990 (*)
B	4,8	8,6	14,0	16	8
DK	15,4	-14,5	-7,0	4	3
D	4,3	4,1	7,5	11¼	7½
GR	-12,6	-1,0	10,7	5½	7
E	15,8	24,2	14,7	12¾	8¾
F	2,5	4,7	9,7	7	7
IRL	5,3	3,6	2,8	10½	10
I	2,0	15,0	6,0	6¼	4¾
L	39,1	6,1	3,0	4½	5
NL	11,3	1,1	6,3	9¾	2¾
P	13,7	31,0	19,5	11¾	9
UK	-1,8	7,2	20,4	10¼	4
EC	3,5	8,5	10,6	9¼	6

(k) Total investment
(annual % change; constant prices)

	1986	1987	1988	1989 (*)	1990 (*)
B	3,7	7,6	12,9	12¼	5¾
DK	17,3	-9,0	-6,5	0	2¼
D	3,3	1,8	5,9	7¾	5
GR	-5,7	-3,2	9,0	6½	6½
E	10,0	14,6	14,0	13¾	10
F	2,9	3,7	7,3	5½	5½
IRL	-0,3	0,0	-1,7	8½	10
I	1,4	5,2	4,9	5¼	4
L	15,8	5,3	4,5	4¼	4
NL	8,2	1,6	9,7	6¾	1½
P	9,5	19,5	15,8	11½	10
UK	0,9	5,5	13,1	4½	1¾
EC	3,4	4,8	8,4	7	4¾
USA	0,9	3,1	5,8	2¼	4
JAP	6,0	10,3	13,6	9¾	5¼

(l) GDP per head
(EC = 100; current prices and purchasing power standards)

	1960	1973	1986	1989 (*)	1990 (*)
B	95,4	100,6	101,1	102,4	103,0
DK	118,6	113,1	118,0	108,0	107,2
D	117,2	110,1	114,4	113,3	113,4
GR	38,4	56,3	56,0	54,0	53,6
E	59,2	77,4	72,2	75,7	76,3
F	104,3	109,3	110,0	108,5	108,6
IRL	61,4	59,9	63,4	66,0	67,3
I	91,2	98,8	104,0	105,1	105,2
L	134,5	123,9	126,3	128,0	128,7
NL	117,8	112,1	106,4	103,5	103,1
P	37,3	54,2	52,8	54,5	55,4
UK	127,6	107,2	104,2	104,6	103,7
EC	100,0	100,0	100,0	100,0	100,0
USA	188,7	160,4	156,1	154,5	152,1
JAP	55,5	95,4	111,0	115,8	116,9

(*) Forecasts September/October 1989.

COUNCIL DIRECTIVE

of 21 December 1989

on the approximation of the laws of the Member States relating to personal protective equipment

(89/686/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

In cooperation with the European Parliament ⁽²⁾,

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

Whereas it is necessary to adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992; whereas the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is guaranteed;

Whereas various Member States have, over recent years, adopted provisions covering numerous items of personal protective equipment with a view in particular to safeguarding public health, improving safety at work and ensuring user protection;

Whereas these national provisions are often very detailed as regards the requirements relating to the design, manufacture, quality level, testing and certification of personal protective equipment with a view to the protection of individuals against injury and illness;

Whereas, in particular, the national provisions relating to safety at work make the use of personal protective equipment compulsory; whereas many requirements oblige employers to make appropriate personal protective equipment available to their staff in the absence or inadequacy of priority public protection measures;

Whereas national provisions relating to personal protective equipment differ significantly from one Member State to another; whereas they may thus constitute a barrier to trade with direct consequences for the creation and operation of the common market;

Whereas it is necessary to harmonize these different national provisions in order to ensure the free movement of these

products, without in any way reducing the valid levels of protection already required in the Member States, and to provide for any necessary increase therein;

Whereas the provisions governing the design and manufacture of personal protective equipment laid down in this Directive which are fundamental, in particular, to attempts to ensure a safer working environment are without prejudice to provisions relating to the use of such equipment and the organization of the health and safety of workers at the workplace;

Whereas this Directive defines only the basic requirements to be satisfied by personal protective equipment; whereas, in order to facilitate proof of conformity with those basic requirements, it is essential that harmonized European standards be available relating, in particular, to the design and manufacture of, and the specifications and test methods applicable to, personal protective equipment, since compliance therewith confers on these products a presumption of conformity with the abovementioned basic requirements; whereas such harmonized European standards are drawn up by private bodies and must retain the status of non-mandatory texts; whereas, to this end, the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (Cenelec) are the competent bodies which have been authorized to adopt harmonized standards in accordance with the general guidelines governing cooperation between the Commission and those two institutions ratified on 13 November 1984; whereas, for the purposes of this Directive, a harmonized standard is a text containing technical specifications (a European standard or a harmonization document) which has been adopted by one or both of the abovementioned bodies at the instigation of the Commission in accordance with Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽⁴⁾, as amended by Directive 88/182/EEC ⁽⁵⁾, and pursuant to the abovementioned general guidelines;

Whereas, pending the adoption of harmonized standards, which will be very numerous because of the broad scope of application and the preparation of which within the deadline set for the creation of the internal market will involve a great deal of work, it would be advisable to maintain, on a transitional basis and subject to the requirements of the Treaty, the status quo as regards conformity with existing national standards for personal protective equipment not covered by a harmonized standard at the date of adoption of this Directive;

⁽¹⁾ OJ No C 141, 30. 5. 1988, p. 14.

⁽²⁾ OJ No C 12, 16. 1. 1989, p. 109,
OJ No C 304, 4. 12. 1989, p. 29.

⁽³⁾ OJ No C 337, 31. 12. 1988, p. 37.

⁽⁴⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽⁵⁾ OJ No L 81, 26. 3. 1988, p. 75.

Whereas, given the general and horizontal nature of the role played by the Standing Committee set up pursuant to Article 5 of Directive 83/189/EEC in Community standardization policy and, more particularly, its part in the preparation of standardization applications and the operation of the existing European standardization agreements, this Standing Committee is especially suited to the task of assisting the Commission in monitoring the conformity of harmonized standards throughout the Community;

Whereas compliance with these technical requirements must be monitored in order to ensure adequate user and third-party protection; whereas existing monitoring procedures may differ appreciably from one Member State to another; whereas, in order to avoid numerous checks which merely impede the free movement of personal protective equipment, provision should be made for the mutual recognition of inspections conducted by the Member States; whereas, in order to facilitate such recognition, it is necessary, in particular, to lay down harmonized Community procedures and to harmonize the criteria to be taken into account in selecting the bodies responsible for examination, monitoring and verification;

Whereas the legislative framework should be improved so that both sides of industry will make an effective and appropriate contribution to the process of standardization,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

SCOPE, PLACING ON THE MARKET AND FREE MOVEMENT

Article 1

1. This Directive applies to personal protective equipment, hereinafter referred to as 'PPE'.

It lays down the conditions governing its placing on the market and free movement within the Community and the basic safety requirements which PPE must satisfy in order to ensure the health protection and safety of users.

2. For the purposes of this Directive, PPE shall mean any device or appliance designed to be worn or held by an individual for protection against one or more health and safety hazards.

PPE shall also cover:

- (a) a unit constituted by several devices or appliances which have been integrally combined by the manufacturer for the protection of an individual against one or more potentially simultaneous risks;
- (b) a protective device or appliance combined, separably or inseparably, with personal non-protective equipment

worn or held by an individual for the execution of a specific activity;

- (c) interchangeable PPE components which are essential to its satisfactory functioning and used exclusively for such equipment.

3. Any system placed on the market in conjunction with PPE for its connection to another external, additional device shall be regarded as an integral part of that equipment even if the system is not intended to be worn or held permanently by the user for the entire period of risk exposure.

4. This Directive does not apply to:

- PPE covered by another directive designed to achieve the same objectives as this Directive with regard to placing on the market, free movement of goods and safety,
- the PPE classes specified in the list of excluded products in Annex I, independently of the reason for exclusion mentioned in the first indent.

Article 2

1. Member States shall take all appropriate measures to ensure that the PPE referred to in Article 1 may be placed on the market and brought into service only if it preserves the health and ensures the safety of users without prejudice to the health or safety of other individuals, domestic animals or goods, when properly maintained and used for its intended purpose.

2. This Directive shall be without prejudice to the right of Member States to lay down — in conformity with the Treaty — any requirements which they consider necessary to ensure user protection, provided that this does not give rise to modifications to PPE which could result in its non-conformity with the provisions of this Directive.

3. Member States shall not prevent the presentation at trade fairs, exhibitions and the like of PPE which is not in conformity with the provisions of this Directive, provided that an appropriate notice is displayed drawing attention to this fact and the prohibition on its acquisition and/or use for any purpose whatsoever until it has been brought into conformity by the manufacturer or his representative established in the Community.

Article 3

The PPE referred to in Article 1 must satisfy the basic health and safety requirements laid down in Annex II.

Article 4

1. Member States shall not prohibit, restrict or hinder the placing on the market of PPE or PPE components which

satisfy the provisions of this Directive and which bear the EC mark.

2. Member States shall not prohibit, restrict or impede the placing on the market of PPE components which do not bear the EC mark, and which are intended to be incorporated in PPE, provided that they are not essential to its satisfactory functioning.

Article 5

1. Member States shall regard as in conformity with the basic requirements referred to in Article 3 the PPE referred to in Article 8 (3) bearing the EC mark with respect to which the manufacturer is able to produce, on demand, the declaration of conformity referred to in Article 12.

2. Member States shall presume that the PPE referred to in Article 8 (2) satisfies the basic requirements referred to in Article 3 if it bears the EC mark with respect to which the manufacturer is able to produce, on demand, not only the declaration referred to in Article 12 but also the certificate issued by the body of which notification has been given in accordance with Article 9 attesting to their conformity to the relevant national standards, transposing the harmonized standards, assessed at the EC type examination level in accordance with the first indent of Article 10 (4) (a) and (b).

Where a manufacturer has not applied or has only partly applied the harmonized standards or where there are no such standards the certificate issued by the body of which notification has been given must state the conformity to the basic requirements in accordance with the second indent of Article 10 (4) (a) and (b).

3. The PPE referred to in Article 8 (2) for which harmonized standards are not available may continue on a transitional basis, until 31 December 1992 at the latest, to be subject to national arrangements already in force on the date of adoption of this Directive, provided that such arrangements are compatible with the provisions of the Treaty.

4. The Commission shall publish the references of the harmonized standards in the *Official Journal of the European Communities*.

Member States shall publish the references of the national standards transposing the harmonized standards.

5. Member States shall ensure that by 30 June 1991 appropriate steps are taken to enable both sides of industry to have an influence at national level on the process of formulating the harmonized standards and keeping them under review.

Article 6

1. Should a Member State or the Commission consider that the harmonized standards referred to in Article 5 do not

completely satisfy the relevant basic requirements referred to in Article 3, the Commission or the Member State concerned shall refer the matter to the committee created pursuant to Directive 83/189/EEC ⁽¹⁾, setting out its reasons. The committee shall deliver an opinion without delay.

In the light of the committee's opinion, the Commission shall notify Member States of whether or not it is necessary to withdraw the standards concerned from publications made pursuant to Article 5.

2. The Standing Committee set up by Article 6 (2) of Directive 89/392/EEC ⁽²⁾ may be apprised, in accordance with the procedure described below, of any matter to which the implementation and practical application of this Directive give rise.

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, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

Article 7

1. If a Member State discovers that PPE bearing the EC mark and used in accordance with its intended purpose could compromise the safety of individuals, domestic animals or property, it shall take all necessary measures to remove that equipment from the market and prohibit the marketing or free movement thereof.

The Member State concerned shall immediately inform the Commission of such action, indicating the reasons for its decision and, in particular, stating whether non-conformity is due to:

- (a) failure to comply with the basic requirements referred to in Article 3;
- (b) the unsatisfactory application of the standards referred to in Article 5;
- (c) a shortcoming in the standards referred to in Article 5.

2. The Commission shall initiate discussions with the parties concerned as soon as possible. If, after such consultation, the Commission decides that the action taken

⁽¹⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽²⁾ OJ No L 183, 29. 6. 1989, p. 9.

was justified, it shall immediately inform the Member State concerned and all the other Member States to that effect. If, after such consultation, the Commission decides that the action taken was not justified, it shall immediately inform the Member State concerned and the manufacturer or his authorized representative established in the Community to that effect. If the decision referred to in paragraph 1 is in response to a shortcoming in the standards, the Commission shall refer the matter to the Committee referred to in Article 6 (1) if the Member State concerned intends to adhere to its decision and shall initiate the procedure referred to in Article 6 (2).

3. If PPE which is not in conformity with the relevant requirements bears the EC mark, the Member State concerned shall take the appropriate measures with regard to those responsible for affixing the mark and shall inform the Commission and the other Member States accordingly.

4. The Commission shall ensure that the Member States are kept informed of the progress and results of the procedure provided for in this Article.

CHAPTER II

CERTIFICATION PROCEDURES

Article 8

1. Before placing a PPE model on the market, the manufacturer or his authorized representative established in the Community shall assemble the technical documentation referred to in Annex III so that this can, if necessary, be submitted to the competent authorities.

2. Prior to the series production of PPE other than those referred to in paragraph 3, the manufacturer or his authorized representative established in the Community shall submit a model for EC type-examination as referred to in Article 10.

3. EC type-examination shall not be required in the case of PPE models of simple design where the designer assumes the user can himself assess the level of protection provided against the minimal risks concerned the effects of which, when they are gradual, can be safely identified by the user in good time.

This category shall cover exclusively PPE intended to protect the wearer against:

- mechanical action whose effects are superficial (gardening gloves, thimbles, etc.),
- cleaning materials of weak action and easily reversible effects (gloves affording protection against diluted detergent solutions, etc.),
- risks encountered in the handling of hot components which do not expose the user to a temperature exceeding 50 °C or to dangerous impacts (gloves, aprons for professional use, etc.),
- atmospheric agents of a neither exceptional nor extreme nature (headgear, seasonal clothing, footwear, etc.),

- minor impacts and vibrations which do not affect vital areas of the body and whose effects cannot cause irreversible lesions (light anti-scalping helmets, gloves, light footwear, etc.),

- sunlight (sunglasses).

4. Production of PPE shall be subject:

- (a) according to the manufacturer's choice, to one of the two procedures referred to in Article 11 in the case of PPE of complex design intended to protect against mortal danger or against dangers that may seriously and irreversibly harm the health, the immediate effects of which the designer assumes the user cannot identify in sufficient time. This category shall cover exclusively:

- filtering respiratory devices for protection against solid and liquid aerosols or irritant, dangerous, toxic or radiotoxic gases,
- respiratory protection devices providing full insulation from the atmosphere, including those for use in diving,
- PPE providing only limited protection against chemical attack or against ionizing radiation,
- emergency equipment for use in high-temperature environments the effects of which are comparable to those of an air temperature of 100 °C or more and which may or may not be characterized by the presence of infra-red radiation, flames or the projection of large amounts of molten material,
- emergency equipment for use in low-temperature environments the effects of which are comparable to those of an air temperature of - 50 °C or less,
- PPE to protect against falls from a height,
- PPE against electrical risks and dangerous voltages or that used as insulation in high-tension work,
- motor cycle helmets and visors;

- (b) the EC declaration of conformity referred to in Article 12 for all PPE.

Article 9

1. Each Member State shall inform the Commission and the other Member States of the approved bodies responsible for the execution of the certification procedures referred to in Article 8. For information purposes, the Commission shall publish in the *Official Journal of the European Communities* and keep up to date a list giving the names of these bodies and the distinguishing numbers it has assigned to them.

2. Member States shall apply the criteria laid down in Annex V in assessing the bodies to be indicated in such notification. Bodies meeting the assessment criteria laid down in the relevant harmonized standards shall be presumed to fulfil those criteria.

3. A Member State shall withdraw its approval from such a body if it establishes that the latter no longer satisfies the criteria referred to in Annex V. It shall inform the Commission and the other Member States of its action forthwith.

EC TYPE-EXAMINATION

Article 10

1. EC type-examination is the procedure whereby the approved inspection body establishes and certifies that the PPE model in question satisfies the relevant provisions of this Directive.

2. Application for EC type-examination shall be made by the manufacturer or his authorized representative to a single approved inspection body in respect of the model in question. The authorized representative shall be established in the Community.

3. The application shall comprise:

- the name and address of the manufacturer or his authorized representative and of the PPE production plant in question,
- the manufacturer's technical file referred to in Annex III.

It shall be accompanied by the appropriate number of specimens of the model to be approved.

4. The inspection body of which notification has been given shall conduct the EC type-examination in accordance with the undermentioned procedures:

(a) Examination of the manufacturer's technical file

- It shall examine the manufacturer's technical file to establish its suitability with respect to the harmonized standards referred to in Article 5.
- Where a manufacturer has not applied, or has only partly applied, the harmonized standards or where there are no such standards, the body of which notification has been given must check the suitability of the technical specifications used by the manufacturer with respect to the basic requirements before examining the manufacturer's technical file to establish its suitability with respect to these technical specifications.

(b) Examination of the model

- When examining the model, the inspection body shall verify that it has been produced in accordance with the manufacturer's technical file and can be used in complete safety for its intended purpose.
- It shall conduct the necessary examinations and tests to establish the conformity of the model with the harmonized standards.
- Where a manufacturer has not applied or has only partly applied the harmonized standards or where there are no such standards the body of which notification has been given shall conduct the necessary examinations and tests to establish the conformity of the model with the technical specifications used by the manufacturer, subject to their being suitable with respect to these basic requirements.

5. If the model satisfies the relevant provisions, the inspection body shall draw up an EC type-examination certificate and shall notify the applicant to this effect. This certificate shall reproduce the findings of the examination, indicate any conditions attaching to its issue and incorporate the descriptions and drawings necessary for the identification of the approved model.

The Commission, the other approved inspection bodies and the other Member States may obtain a copy of the certificate and, in response to a reasoned request, a copy of the manufacturer's technical file and the reports of the examinations and tests conducted.

The file shall be held at the disposal of the competent authorities for 10 years following the placing of the PPE on the market.

6. Any inspection body which refuses to issue an EC type-examination certificate shall inform the other approved inspection bodies of this fact. An inspection body withdrawing an EC type-examination certificate shall inform the Member State which approved it, to this effect. That Member State shall then inform the other Member States and the Commission, setting out the reasons for the decision.

CHECKING OF PPE MANUFACTURED

Article 11

A. 'EC' quality control system for the final product

1. A manufacturer shall take all steps necessary to ensure that the manufacturing process, including the final inspection of PPE and tests, ensures the homogeneity of production and the conformity of PPE with the type described in the EC type-approval certificate and with the relevant basic requirements of this Directive.

2. A body of which notification has been given, chosen by a manufacturer, shall carry out the necessary checks. Those checks shall be carried out at random, normally at intervals of at least one year.

3. An adequate sample of PPE taken by the body of which notification has been given shall be examined and appropriate tests defined in the harmonized standards or necessary to show conformity to the basic requirements of this Directive shall be carried out to check the conformity of PPE.

4. Where a body is not the body that issued the relevant EC type-approval certificate it shall contact the body of which notification has been given in the event of difficulties in connection with the assessment of the conformity of samples.

5. The body of which notification has been given shall provide the manufacturer with a test report. If the report concludes that production is not homogeneous or that the PPE examined do not conform to the type described in the EC

type-approval certificate or the relevant basic requirements, the body shall take measures appropriate to the nature of the fault or faults recorded and inform the Member State which gave notification thereof accordingly.

6. The manufacturer must be able to present, on request, the report of the body of which notification has been given.

B. System for ensuring EC quality of production by means of monitoring

1. The system

- (a) Under this procedure the manufacturer submits an application for the approval of his quality-control system to a body of which notification has been given, of his choice.

That application shall include:

- all the information relating to the category of PPE concerned, including, where appropriate, documentation relating to the model approved,
- documentation on the quality-control system,
- the undertaking to maintain the obligations arising from the quality-control system and to maintain its adequacy and efficiency.

- (b) Under the quality-control system, each PPE shall be examined and the appropriate tests referred to in Section A paragraph 3 shall be carried out to check their conformity to the relevant basic requirements of this Directive.

The documentation on the quality-control system shall in particular include an adequate description of:

- the quality objectives, the organization chart, the responsibilities of executives and their powers in respect of product quality,
- the checks and tests which must be carried out after manufacture,
- the means to be employed to check the efficient operation of the quality-control system.

- (c) The body shall assess the quality-control system to determine whether it satisfies the provisions referred to in paragraph 1 (b). It shall assume that quality-control systems applying the relevant harmonized standard satisfy those provisions.

The body carrying out audits shall make all necessary objective evaluations of the components of the quality-control system and shall check in particular whether the system ensures conformity of PPE manufactured with the approved model.

The decision shall be communicated to the manufacturer. It shall include the conclusions of the check and the reasoned assessment decision.

- (d) The manufacturer shall inform the body which approved the quality-control system of any plan to alter the quality-control system.

The body shall examine the proposed changes and decide whether the altered quality-control system satisfies the relevant provisions. It shall communicate its decision to the manufacturer. The communication shall include the conclusions of the check and the reasoned assessment decision.

2. Supervision

- (a) The purpose of supervision is to ensure that a manufacturer correctly fulfils the obligations arising from the approved quality-control system.

- (b) The manufacturer shall authorize the body to have access, for purposes of inspection, to PPE inspection, testing and storage sites and shall provide the body with all requisite information, in particular:

- documentation on the quality-control system,
- technical documentation,
- quality control manuals.

- (c) The body shall periodically carry out audits to ensure that the manufacturer is maintaining and applying the approved quality-control system and shall provide the manufacturer with a copy of the audit report.

- (d) In addition, the body may make unannounced visits to the manufacturer. In the course of such visits the body shall provide the manufacturer with a report of the visit and, if appropriate, with an audit report.

- (e) The manufacturer must be able to present, on request, the report of the body of which notification has been given.

EC DECLARATION OF PRODUCTION CONFORMITY

Article 12

The EC declaration of conformity is the procedure whereby the manufacturer:

1. draws up a declaration using the form laid down in Annex VI certifying that the PPE placed on the market are in conformity with the provisions of this Directive with a view to its submission to the competent authorities;
2. affixes the EC mark of conformity provided for by Article 13 to each PPE.

CHAPTER III

EC MARK

Article 13

1. The EC mark consists of the letters 'CE' followed by the last two figures of the year in which the mark was affixed

and, in the event of the involvement of a notified body having carried out an EC examination of the type referred to in Article 10, its distinguishing number shall be added.

The form of the mark to be used is shown in Annex IV.

2. The EC mark shall be affixed to each production PPE and its packaging so as to be visible, legible and indelible throughout the foreseeable useful life of that PPE.

3. Marks or inscriptions which could be confused with the EC mark may not be affixed to PPE.

CHAPTER IV

FINAL PROVISIONS

Article 14

Any decision taken in implementation of this Directive and leading to restrictions on the marketing of PPE shall be accompanied by a detailed explanation of the grounds on which it is based. The interested party shall be notified of the decision without delay and informed of the possibilities for appeal under the legislation in force in the Member State concerned and of the deadlines for lodging such appeals.

Article 15

The Commission shall take the necessary steps to ensure that data concerning all the relevant decisions in connection with the management of this Directive are made available.

Article 16

1. By 31 December 1991, Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

They shall apply those provisions from 1 July 1992.

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.

Article 17

This Directive is addressed to the Member States.

Done at Brussels, 21 December 1989.

For the Council
The President
E. CRESSON

ANNEX I**EXHAUSTIVE LIST OF PPE CLASSES NOT COVERED BY THIS DIRECTIVE**

1. PPE designed and manufactured specifically for use by the armed forces or in the maintenance of law and order (helmets, shields, etc.).
 2. PPE for self-defence (aerosol canisters, personal deterrent weapons, etc.).
 3. PPE designed and manufactured for private use against:
 - adverse atmospheric conditions (headgear, seasonal clothing, footwear, umbrellas, etc.),
 - damp and water (dish-washing gloves, etc.),
 - heat (gloves etc.).
 4. PPE intended for the protection or rescue of persons on vessels or aircraft, not worn all the time.
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ANNEX II

BASIC HEALTH AND SAFETY REQUIREMENTS

1. GENERAL REQUIREMENTS APPLICABLE TO ALL PPE

PPE must provide adequate protection against all risks encountered.

1.1. Design principles

1.1.1. Ergonomics

PPE must be so designed and manufactured that in the foreseeable conditions of use for which it is intended the user can perform the risk-related activity normally whilst enjoying appropriate protection of the highest possible level.

1.1.2. Levels and classes of protection

1.1.2.1. Highest level of protection possible

The optimum level of protection to be taken into account in the design is that beyond which the constraints imposed by the wearing of the PPE would prevent its effective use during the period of exposure to the risk or normal performance of the activity.

1.1.2.2. Classes of protection appropriate to different levels of risk

Where differing foreseeable conditions of use are such that several levels of the same risk can be distinguished, appropriate classes of protection must be taken into account in the design of the PPE.

1.2. Innocuousness of PPE

1.2.1. Absence of risks and other 'inherent' nuisance factors

PPE must be so designed and manufactured as to preclude risks and other nuisance factors under foreseeable conditions of use.

1.2.1.1. Suitable constituent materials

PPE materials and parts, including any of their decomposition products, must not adversely affect user hygiene or health.

1.2.1.1. Satisfactory surface condition of all PPE parts in contact with the user

Any PPE part in contact or in potential contact with the user when such equipment is worn must be free of roughness, sharp edges, projections and the like which could cause excessive irritation or injuries.

1.2.1.3. Maximum permissible user impediment

Any impediment caused by PPE to movements to be made, postures to be adopted and sensory perception must be minimized; nor must PPE cause movements which endanger the user or other persons.

1.3. Comfort and efficiency

1.3.1. Adaptation of PPE to user morphology

PPE must be so designed and manufactured as to facilitate correct positioning on the user and to remain in place for the foreseeable period of use, bearing in mind ambient factors, movements to be made and postures to be adopted. For this purpose, it must be possible to optimize PPE adaptation to user morphology by all appropriate means, such as adequate adjustment and attachment systems or the provision of an adequate size range.

1.3.2. Lightness and design strength

PPE must be as light as possible without prejudicing design strength and efficiency.

Apart from the specific additional requirements which they must satisfy in order to provide adequate protection against the risks in question (see 3), PPE must be capable of withstanding the effects of ambient phenomena inherent under the foreseeable conditions of use.

1.3.3. *Compatibility of different classes or types of PPE designed for simultaneous use*

If the same manufacturer markets several PPE models of different classes or types in order to ensure the simultaneous protection of adjacent parts of the body against combined risks, these must be compatible.

1.4. Information supplied by the manufacturer

In addition to the name and address of the manufacturer and/or his authorized representative established in the Community, the notes that must be drawn up by the former and supplied when PPE is placed on the market must contain all relevant information on:

- (a) storage, use, cleaning, maintenance, servicing and disinfection. Cleaning, maintenance or disinfectant products recommended by manufacturers must have no adverse effect on PPE or users when applied in accordance with the relevant instructions;
- (b) performance as recorded during technical tests to check the levels or classes of protection provided by the PPE in question;
- (c) suitable PPE accessories and the characteristics of appropriate spare parts;
- (d) the classes of protection appropriate to different levels of risk and the corresponding limits of use;
- (e) the obsolescence deadline or period of obsolescence of PPE or certain of its components;
- (f) the type of packaging suitable for transport;
- (g) the significance of any markings (see 2.12).

These notes, which must be precise and comprehensible, must be provided at least in the official language(s) of the Member State of destination.

2. ADDITIONAL REQUIREMENTS COMMON TO SEVERAL CLASSES OR TYPES OF PPE

2.1. PPE incorporating adjustment systems

If PPE incorporates adjustment systems, the latter must be so designed and manufactured as not to become incorrectly adjusted without the user's knowledge under the foreseeable conditions of use.

2.2. PPE 'enclosing' the parts of the body to be protected

As far as possible, PPE 'enclosing' the parts of the body to be protected must be sufficiently ventilated to limit perspiration resulting from use; if this is not the case, it must if possible be equipped with devices which absorb perspiration.

2.3. PPE for the face, eyes and respiratory tracts

Any restriction of the user's field of vision or sight by PPE for the face, eyes or respiratory tract must be minimized.

The degree of optical neutrality of the vision systems of these PPE classes must be compatible with the type of relatively meticulous and/or prolonged activities of the user.

If necessary, they must be treated or provided with facilities to prevent moisture formation.

PPE models intended for users requiring sight correction must be compatible with the wearing of spectacles or contact lenses.

2.4. PPE subject to ageing

If it is known that the design performances of new PPE may be significantly affected by ageing, the date of manufacture and/or, if possible, the date of obsolescence, must be indelibly inscribed on every PPE item or interchangeable component placed on the market in such a way as to preclude any misinterpretation; this information must also be indelibly inscribed on the packaging.

If a manufacturer is unable to give an undertaking with regard to the useful life of PPE, his notes must provide all the information necessary to enable the purchaser or user to establish a reasonable obsolescence date, bearing in mind the quality level of the model and the effective conditions of storage, use, cleaning, servicing and maintenance.

Where appreciable and rapid deterioration in PPE performance is likely to be caused by ageing resulting from the periodic use of a cleaning process recommended by the manufacturer, the latter must, if possible, affix a mark to each item of PPE placed on the market indicating the maximum number of cleaning operations that may be carried out before the equipment needs to be inspected or discarded; failing that, the manufacturer must give this information in his notes.

2.5. PPE which may be caught up during use

Where the foreseeable conditions of use include in particular the risk of the PPE being caught up by a moving object thereby creating a danger for the user, the PPE must possess an appropriate resistance threshold above which a constituent part will break and eliminate the danger.

2.6. PPE for use in explosive atmospheres

PPE intended for use in explosive atmospheres must be so designed and manufactured that it cannot be the source of an electric, electrostatic or impact-induced arc or spark likely to cause an explosive mixture to ignite.

2.7. PPE intended for emergency use or rapid installation and/or removal

These PPE classes must be so designed and manufactured as to minimize the time required for attachment and (or) removal.

Any integral systems permitting correct positioning on, or removal from, the user must be susceptible of rapid and easy operation.

2.8. PPE for use in very dangerous situations

The information notes supplied by the manufacturer together with PPE for use in the very dangerous situations referred to in Article 8 (4) (a) must include, in particular, data intended for the exclusive use of competent trained individuals who are qualified to interpret them and ensure their application by the user.

They must also describe the procedure to be adopted in order to verify that PPE is correctly adjusted and functional when worn by the user.

If PPE incorporates an alarm which is activated in the absence of the level of protection normally provided, this must be so designed and accommodated as to be perceived by the user in the conditions of use for which the PPE is marketed.

2.9. PPE incorporating components which can be adjusted or removed by the user

Any PPE components which can be adjusted or removed by the user for the purpose of replacement must be so designed and manufactured as to facilitate adjustment, attachment and removal without tools.

2.10. PPE for connection to another, external complementary device

If PPE incorporates a system permitting connection to another, complementary, device, the attachment mechanism must be so designed and manufactured as to enable it to be mounted only on appropriate equipment.

2.11. PPE incorporating a fluid circulation system

If PPE incorporates a fluid circulation system, the latter must be so chosen, or designed, and incorporated as to permit adequate fluid renewal in the vicinity of the entire part of the body to be protected, irrespective of user gestures, posture or movement under the foreseeable conditions of use.

2.12. PPE bearing one or more identification or recognition marks directly or indirectly relating to health and safety

The identification or recognition marks directly or indirectly relating to health and safety affixed to these types or classes of PPE must preferably take the form of harmonized pictograms or ideograms and must remain perfectly legible throughout the foreseeable useful life of the PPE. In addition, these marks must be complete, precise and comprehensible so as to prevent any misinterpretation; in particular, when such marks incorporate words or sentences, the latter must appear in the official language(s) of the Member State where the equipment is to be used.

If PPE (or a PPE component) is too small to allow all or part of the necessary marking to be affixed, the relevant information must be mentioned on the packing and in the manufacturer's notes.

2.13. PPE in the form of clothing capable of signalling the user's presence visually

PPE in the form of clothing intended for foreseeable conditions of use in which the user's presence must be visibly and individually signalled must have one (or more) judiciously positioned means of or devices for emitting direct or reflected visible radiation of appropriate luminous intensity and photometric and colorimetric properties.

2.14. 'Multi-risk' PPE

All PPE designed to protect the user against several potentially simultaneous risks must be so designed and manufactured as to satisfy, in particular, the basic requirements specific to each of those risks (see 3).

3. ADDITIONAL REQUIREMENTS SPECIFIC TO PARTICULAR RISKS**3.1. Protection against mechanical impact****3.1.1. *Impact caused by falling or projecting objects and collision of parts of the body with an obstacle***

Suitable PPE for this type of risk must be sufficiently shock-absorbent to prevent injury resulting, in particular, from the crushing or penetration of the protected part, at least up to an impact-energy level above which the excessive dimensions or mass of the absorbing device would preclude effective use of the PPE for the foreseeable period of wear.

3.1.2. *Falls***3.1.2.1. Prevention of falls due to slipping**

The outsoles for footwear designed to prevent slipping must be so designed, manufactured or equipped with added elements as to ensure satisfactory adhesion by grip and friction having regard to the nature or state of the surface.

3.1.2.2. Prevention of falls from a height

PPE designed to prevent falls from a height or their effects must incorporate a body harness and an attachment system which can be connected to a reliable anchorage point. It must be designed so that under the foreseeable conditions of use the vertical drop of the user is minimized to prevent collision with obstacles and the braking force does not, however, attain the threshold value at which physical injury or the tearing or rupture of any PPE component which might cause the user to fall can be expected to occur.

It must also ensure that after braking the user is maintained in a correct position in which he may await help if necessary.

The manufacturer's notes must specify in particular all relevant information relating to:

- the characteristics required for the reliable anchorage point and the necessary minimum clearance below the user,
- the proper way of putting on the body harness and of connecting the attachment system to the reliable anchorage point.

3.1.3. Mechanical vibration

PPE designed to prevent the effects of mechanical vibrations must be capable of ensuring adequate attenuation of harmful vibration components for the part of the body at risk.

Under no circumstances must the effective value of the accelerations transmitted to the user by those vibrations exceed the limit values recommended in the light of the maximum foreseeable daily exposure of the part of the body at risk.

3.2. Protection against (static) compression of part of the body

PPE designed to protect part of the body against (static) compressive stress must be sufficiently capable of attenuating its effects to prevent serious injury or chronic complaints.

3.3. Protection against physical injury (abrasion, perforation, cuts, bites)

PPE constituent materials and other components designed to protect all or part of the body against superficial injury caused by machinery, such as abrasion, perforation, cuts or bites, must be so chosen or designed and incorporated as to ensure that these PPE classes provide sufficient resistance to abrasion, perforation and gashing (see also 3.1) under the foreseeable conditions of use.

3.4. Prevention of drowning (lifejackets, armbands and lifesaving suits)

PPE designed to prevent drowning must be capable of returning to the surface as quickly as possible, without danger to his health, a user who may be exhausted or unconscious after falling into a liquid medium, and of keeping him afloat in a position which permits breathing while awaiting help.

PPE may be wholly or partially inherently buoyant or may be inflated either by gas which can be manually or automatically released or orally.

Under the foreseeable conditions of use:

- PPE must, without prejudice to its satisfactory operation, be capable of withstanding the effects of impact with the liquid medium and the environmental factors inherent in that medium,
- inflatable PPE must be capable of inflating rapidly and fully.

Where particular foreseeable conditions of use so require, certain types of PPE must also satisfy one or more of the following additional requirements:

- it must have all the inflation devices referred to in the second subparagraph, and/or a light or sound-signalling device,
- it must have a device for hitching and attaching the body so that the user may be lifted out of the liquid medium,
- it must be suitable for prolonged use throughout the period of activity exposing the user, possibly dressed, to the risk of falling into the liquid medium or requiring his immersion in it.

3.4.1. Buoyancy aids

Clothing which will ensure an effective degree of buoyancy, depending on its foreseeable use, which is safe when worn and which affords positive support in water. In foreseeable conditions of use, this PPE must not restrict the user's freedom of movement but must enable him, in particular, to swim or take action to escape from danger or rescue other persons.

3.5. Protection against the harmful effects of noise

PPE designed to prevent the harmful effects of noise must be capable of attenuating the latter to such an extent that the equivalent sound levels perceived by the user do not under any circumstances exceed the daily limit values laid down by Council Directive 86/188/EEC of 12 May 1986 on the protection of workers from the risks related to exposure to noise at work ⁽¹⁾.

All PPE must bear labelling indicating the noise attenuation level and the value of the comfort index provided by the PPE; should this not be possible, the labelling must be fixed to the packaging.

3.6. Protection against heat and/or fire

PPE designed to protect all or part of the body against the effects of heat and/or fire must possess thermal insulation capacity and mechanical strength appropriate to foreseeable conditions of use.

3.6.1. PPE constituent materials and other components

Constituent materials and other components suitable for protection against radiant and convective heat must possess an appropriate coefficient of transmission of incident heat flux and be sufficiently incombustible to preclude any risk of spontaneous ignition under the foreseeable conditions of use.

Where the outside of these materials and components must be reflective, its reflective power must be appropriate to the intensity of the heat flux due to radiation in the infra-red range.

Materials and other components of equipment intended for brief use in high-temperature environments and of PPE which may be splashed by hot products such as large quantities of molten material must also possess sufficient thermal capacity to retain most of the stored heat until after the user has left the danger area and removed his PPE.

PPE materials and other components which may be splashed by large amounts of hot products must also possess sufficient mechanical-impact absorbency (see 3.1).

PPE materials and other components which may accidentally come into contact with flame and those used in the manufacture of fire-fighting equipment must also possess a degree of non-flammability corresponding to the risk class associated with the foreseeable conditions of use. They must not melt when exposed to flames nor contribute to flame propagation.

3.6.2. Complete PPE ready for use

Under the foreseeable conditions of use:

1. the quantity of heat transmitted by PPE to the user must be sufficiently low to prevent the heat accumulated during wear in the part of the body at risk from attaining, under any circumstances, the pain or health impairment threshold;
2. PPE must if necessary prevent liquid or steam penetration and must not cause burns resulting from contact between its protective integument and the user.

If PPE incorporates refrigeration devices for the absorption of incident heat by means of liquid evaporation or solid sublimation, their design must be such that any volatile substances released are discharged beyond the outer protective integument and not towards the user.

If PPE incorporates a breathing device, the latter must adequately fulfil the protective function assigned to it under the foreseeable conditions of use.

The manufacturer's notes accompanying each PPE model intended for brief use in high-temperature environments must in particular provide all relevant data for the determination of the maximum permissible user exposure to the heat transmitted by the equipment when used in accordance with its intended purpose.

3.7. Protection against cold

PPE designed to protect all or part of the body against the effects of cold must possess thermal insulating capacity and mechanical strength appropriate to the foreseeable conditions of use for which it is marketed.

⁽¹⁾ OJ No L 137, 24. 5. 1986, p. 28.

3.7.1. PPE constituent materials and other components

Constituent materials and other components suitable for protection against cold must possess a coefficient of transmission of incident thermal flux as low as required under the foreseeable conditions of use. Flexible materials and other components of PPE intended for use in a low-temperature environment must retain the degree of flexibility required for the necessary gestures and postures.

PPE materials and other components which may be splashed by large amounts of cold products must also possess sufficient mechanical-impact absorbency (see 3.1).

3.7.2. Complete PPE ready for use

Under the foreseeable conditions of use:

1. the flux transmitted by PPE to the user must be sufficiently low to prevent the cold accumulated during wear at any point on the part of the body being protected, including the tips of fingers and toes in the case of hands or feet, from attaining, under any circumstances, the pain or health-impairment threshold;
2. PPE must as far as possible prevent the penetration of such liquids as rain water and must not cause injuries resulting from contact between its cold protective integument and the user.

If PPE incorporates a breathing device, this must adequately fulfil the protective function assigned to it under the foreseeable conditions of use.

The manufacturer's notes accompanying each PPE model intended for brief use in low-temperature environments must provide all relevant data concerning the maximum permissible user exposure to the cold transmitted by the equipment.

3.8. Protection against electric shock

PPE designed to protect all or part of the body against the effects of electric current must be sufficiently insulated against the voltages to which the user is likely to be exposed under the most unfavourable foreseeable conditions.

To this end, the constituent materials and other components of these PPE classes must be so chosen or designed and incorporated as to ensure that the leakage current measured through the protective integument under test conditions at voltages correlated with those likely to be encountered *in situ* is minimized and, at all events, below a maximum conventional permissible value which correlates with the tolerance threshold.

Together with their packaging, PPE types intended exclusively for use during work or activities in electrical installations which are or may be under tension must bear markings indicating, in particular, their protection class and (or) corresponding operating voltage, their serial number and their date of manufacture; a space must also be provided outside the protective integument of such PPE for the subsequent inscription of the date of entry into service and those of the periodic tests or inspections to be conducted.

The manufacturer's notes must indicate, in particular, the exclusive use for which these PPE types are intended and the nature and frequency of the dielectric tests to which they are to be subjected during their useful life.

3.9. Radiation protection**3.9.1. Non-ionizing radiation**

PPE designed to prevent acute or chronic eye-damage from sources of non-ionizing radiation must be capable of absorbing or reflecting the majority of the energy radiated in the harmful wavelengths without unduly affecting the transmission of the innocuous part of the visible spectrum, the perception of contrasts and the ability to distinguish colours where required by the foreseeable conditions of use.

To this end, protective glasses must be so designed and manufactured as to possess, for each harmful wave, a spectral transmission factor such that the radiant-energy illumination density capable of reaching the user's eye through the filter is minimized and, under no circumstances, exceeds the maximum permissible exposure value.

Furthermore, the glasses must not deteriorate or lose their properties as a result of the effects of radiation emitted under the foreseeable conditions of use and all marketed specimens must bear the protection-factor number corresponding to the spectral distribution curve of their transmission factor.

Glasses suitable for radiation sources of the same type must be classified in the ascending order of their protection factors and the manufacturer's notes must indicate, in particular, the transmission curves which make it possible to select the most appropriate PPE bearing in mind such inherent factors of the effective conditions of use as distance to source and the spectral distribution of the energy radiated at that distance.

The relevant protection-factor number must be marked on all specimens of filtering glasses by the manufacturer.

3.9.2. *Ionizing radiation*

3.9.2.1. *Protection against external radioactive contamination*

PPE constituent materials and other components designed to protect all or part of the body against radioactive dust, gases, liquids or mixtures thereof must be so chosen or designed and incorporated as to ensure that this equipment effectively prevents the penetration of the contaminants under the foreseeable conditions of use.

Depending on the nature or condition of these contaminants, the necessary leak-tightness can be provided by the impermeability of the protective integument and/or by any other appropriate means, such as ventilation and pressurization systems designed to prevent the back-scattering of these contaminants.

Any decontamination measures to which PPE is subject must not prejudice its possible re-use during the foreseeable useful life of these classes of equipment.

3.9.2.2. *Limited protection against external irradiation*

PPE intended to provide complete user protection against external irradiation or, failing this, adequate attenuation thereof, must be designed to counter only weak electron (e.g. beta) or weak photon (e.g. X, gamma) radiation.

The constituent materials and other components of these PPE classes must be so chosen or designed and incorporated as to provide the degree of user protection required by the foreseeable conditions of use without leading to an increase in exposure time as a result of the impedance of user gestures, posture or movement (see 1.3.2).

PPE must bear a mark indicating the type and thickness of the constituent material(s) suitable for the foreseeable conditions of use.

3.10. *Protection against dangerous substances and infective agents*

3.10.1. *Respiratory protection*

PPE intended for the protection of the respiratory tract must make it possible to supply the user with breathable air when the latter is exposed to a polluted atmosphere and/or an atmosphere having inadequate oxygen concentration.

The breathable air supplied to the user by the PPE must be obtained by appropriate means, for example after filtration of the polluted air through the protective device or appliance or by a piped supply from an unpolluted source.

The constituent materials and other components of these PPE classes must be so chosen or designed and incorporated as to ensure appropriate user respiration and respiratory hygiene for the period of wear concerned under the foreseeable conditions of use.

The leak-tightness of the facepiece and the pressure drop on inspiration and, in the case of the filtering devices, purification capacity must be such as to keep contaminant penetration from a polluted atmosphere low enough not to be prejudicial to the health or hygiene of the user.

The PPE must bear the manufacturer's identification mark and details of the specific characteristics of that type of equipment which, in conjunction with the instructions for use, will enable a trained and qualified user to employ the PPE correctly.

The manufacturer's notes must also in the case of filtering devices, indicate the deadline for the storage of filters as new and kept in their original packaging.

3.10.2. *Protection against cutaneous and ocular contact*

PPE intended to prevent the surface contact of all or part of the body with dangerous substances and infective agents must be capable of preventing the penetration or diffusion of such substances through the protective integument under the foreseeable conditions of use for which the PPE is placed on the market.

To this end, the constituent materials and other components of these PPE classes must be so chosen, or designed and incorporated as to ensure, as far as possible, complete leak-tightness, which will allow where necessary prolonged daily use or, failing this, limited leak-tightness necessitating a restriction of the period of wear.

Where, by virtue of their nature and the foreseeable conditions of their use, certain dangerous substances or infective agents possess high penetrative power which limits the duration of the protection provided by the PPE in question, the latter must be subjected to standard tests with a view to their classification on the basis of efficiency. PPE which is considered to be in conformity with the test specifications must bear a mark indicating, in particular, the names or, failing this, the codes of the substances used in the tests and the corresponding standard period of protection. The manufacturer's notes must also contain, in particular, an explanation of the codes (if necessary), a detailed description of the standard tests and all appropriate information for the determination of the maximum permissible period of wear under the different foreseeable conditions of use.

3.11. Safety devices for diving equipment

1. Breathing equipment

The breathing equipment must make it possible to supply the user with a breathable gaseous mixture, under foreseeable conditions of use and taking account in particular of the maximum depth of immersion.

2. Where the foreseeable conditions of use so require, the equipment must comprise:

- (a) a suit which protects the user against the pressure resulting from the depth of immersion (see 3.2) and/or against cold (see 3.7);
- (b) an alarm designed to give the user prompt warning of an approaching failure in the supply of breathable gaseous mixture (see 2.8);
- (c) a life-saving suit enabling the user to return to the surface (see 3.4.1).

ANNEX III**TECHNICAL DOCUMENTATION SUPPLIED BY THE MANUFACTURER**

The documentation referred to in Article 8 (1) must comprise all relevant data on the means used by the manufacturer to ensure that a PPE complies with the basic requirements relating to it.

In the case of PPE models referred to in Article 8 (2), the documentation must comprise in particular:

1. the manufacturer's technical file consisting of:
 - (a) overall and detailed plans of the PPE accompanied, where appropriate, by calculation notes and the results of prototype tests in so far as necessary for the verification of compliance with the basic requirements;
 - (b) an exhaustive list of the basic safety requirements and of the harmonized standards or other technical specifications referred to in Articles 3 and 5, taken into account in the design of the model;
 2. a description of the control and test facilities to be used in the manufacturer's plant to check compliance of production PPE with the harmonized standards or other technical specifications and to maintain quality level;
 3. a copy of the information notice referred to in Annex II, 1.4.
-

ANNEX IV

EC MARK OF CONFORMITY

The EC mark of conformity consists of the symbol shown below.



The vertical dimensions of the different components of the EC mark must be perceptibly the same and not less than 5 mm.

(1) As provided in Article 13 (1) the mark may also include the distinguishing number of the approved inspection body referred to in Article 9 (1).

(2) Year in which the mark was affixed.

ANNEX V

CONDITIONS TO BE FULFILLED BY THE BODIES OF WHICH NOTIFICATION HAS BEEN GIVEN

(Article 9 (2))

The bodies designated by the Member States must fulfil the following minimum conditions:

1. availability of personnel and of the necessary means and equipment;
2. technical competence and professional integrity of personnel;
3. independence, in carrying out the tests, preparing the reports, issuing the certificates and performing the surveillance provided for in the Directive, of staff and technical personnel in relation to all circles, groups or persons directly or indirectly concerned with PPE;
4. maintenance of professional secrecy by personnel;
5. subscription of a civil liability insurance unless that liability is covered by the State under national law.

Fulfilment of the conditions under 1 and 2 shall be verified at intervals by the competent authorities of the Member States.

ANNEX VI

MODEL EC DECLARATION OF CONFORMITY

The manufacturer or his authorized representative established in the Community ⁽¹⁾:

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.....
.....

declares that the new PPE described hereafter ⁽¹⁾

.....
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.....
.....
.....

is in conformity with the provisions of Council Directive 89/686/EEC and, where such is the case, with the national standard transposing harmonized standard No (for the PPE referred to in Article 8 (3))

is identical to the PPE which is the subject of EC certificate of conformity No issued by ⁽³⁾ ⁽⁴⁾

.....
.....

is subject to the procedure set out in Article 11 point A or point B ⁽⁴⁾ of Directive 89/686/EEC under the supervision of the notified body ⁽³⁾

.....
.....

Done at, on

.....
Signature ⁽⁵⁾

(1) Business name and full address; authorized representatives must also give the business name and address of the manufacturer.

(2) Description of the PPE (make, type, serial number, etc.).

(3) Name and address of the approved body.

(4) Delete whichever is inapplicable.

(5) Name and position of the person empowered to sign on behalf of the manufacturer or his authorized representative.

COUNCIL DECISION

of 22 December 1989

establishing a programme of options specific to the remote and insular nature of the French overseas departments (Poseidom)

(89/687/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 227 (2) and 235 thereof,

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

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

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

Whereas Article 227 (2) of the Treaty stipulates that the institutions of the Community will, within the framework of the procedures provided for in this Treaty, take care that the economic and social development of the French overseas departments is made possible; whereas, therefore, it is appropriate to introduce a multiannual and multisectoral programme, the better to attain this objective; whereas, in the case in point, the Treaty has not provided the powers required for the adoption of this Decision and it is therefore appropriate to have recourse to Article 235 of the Treaty;

Whereas the French overseas departments, which also constitute regions within the meaning of the French law of 2 August 1984, suffer from a serious structural lack of development aggravated by a number of constraints (remoteness, isolation, small size, difficult terrain and climate, and economic dependence on a small number of products) whose unchanging nature and combined impact have serious adverse effects on their economic and social development; whereas these constraints differentiate sharply the social and economic context of the French overseas departments from that of the other Community regions, particular in the area of unemployment, the level of which is among the highest in the Community and primarily affects young people;

Whereas the Community authorities have repeatedly shown their solidarity with the French overseas departments, whether through assistance from Community funds or by taking their specific nature into account in applying Community rules; whereas the European Parliament stated

in its resolution of 11 May 1987 on the regional problems of the French overseas departments that it was convinced 'that the serious situation which exists in the French overseas departments justifies, and makes it imperative to pursue, economic and social development in various sectors' and called on the Community authorities to implement a broad range of highly diverse operations;

Whereas the special constraints on the French overseas departments make it necessary to step up Community support in order to promote their economic and social development; whereas such support should be forthcoming immediately in order to facilitate the integration of their economies in the 1993 internal market;

Whereas the French overseas departments form an integral part of the Community pursuant to Article 227 of the Treaty, as interpreted by decisions of the Court of Justice, which has ruled that the provisions of the Treaty and secondary legislation apply automatically to the French overseas departments, it being understood that it is always possible to adopt specific measures to assist them to the extent that, and for as long as, there remains an objective need for such measures with a view to the 'economic and social development of these areas';

Whereas, however, while forming an integral part of the Community, the French overseas departments are located in developing regions which lie in tropical latitudes; whereas any operation concerning these departments must therefore be based on a clear understanding of this twofold dimension and be aimed both at the objective of completing the internal market and at that of recognizing the regional reality; whereas the objective of completing the internal market should be reflected in the maintenance, modification or abolition of rules in force in the French overseas departments in line with those which will become the norm in the Community as a whole, while enabling the departments to catch up with the average Community economic and social level;

Whereas Community rules must be adopted to the need to protect the environment and natural resources to take account of the fragile nature of island territories and of their being particularly vulnerable to the increasing pressures of tourism;

Whereas attainment of these objectives may mean that general Community rules will have to be adjusted in so far as they do not take sufficiently into account the features peculiar to the French overseas department; whereas a coordinated approach should therefore be adopted in the framework of a comprehensive programme of operations;

⁽¹⁾ OJ No C 53, 2. 3. 1989, p. 12.

⁽²⁾ Opinion delivered on 14 December 1989 (not yet published in the Official Journal).

⁽³⁾ OJ No C 159, 26. 6. 1989, p. 56.

Whereas implementation of the programme would require the adoption of legal acts, either by the Council or by the Commission as the case may be, some of which could apply solely to the French overseas departments while others would be of only incidental concern to them in texts of general scope;

Whereas, in order to be effective, such a programme must be carried out over a period of years, which could extend, in the case of certain aspects of the programme, beyond the 31 December 1992 deadline, given the permanent constraints which are a particular feature of the French overseas departments;

Whereas the economic effects of any special arrangements must remain strictly limited to the territory of the French overseas departments without affecting directly the functioning of the common market;

Whereas some of the tropical products originating in the French overseas departments are not yet covered by common measures, which means that the aims set out in Article 39 of the Treaty cannot be attained in respect of the producers concerned; whereas this will therefore mean that, on the one hand, the existing common organizations of the market will have to be applied to the French overseas departments, subject to adjustments being made, and, on the other, that the arrangements under certain common organizations will have to be adjusted or *ad hoc* solutions provided for; whereas it will be necessary, as regards in particular the banana market, to give a ruling on provisions which take account of the objectives of the Single European Act; whereas measures will have to be adopted, for the French overseas departments, which take account of the economic and social importance of this product in certain of the said departments and of the objective of bringing about a fair standard of living for producers;

Whereas the exceptional geographical situation of the French overseas departments in relation to sources of supply for products used as inputs in certain food sectors, which are essential for current consumption, entail costs that are a severe handicap for those departments; whereas more of their requirements in agricultural and food products should be met from local production, particularly in the case of livestock farming, where inputs account for a substantial proportion of the cost of the end product; whereas this handicap should accordingly be mitigated by appropriate measures;

Whereas the French overseas departments are suppliers, on the Community market in Europe, of tropical products that are similar to, and in competition with, those produced in part at lower cost in neighbouring developing countries which enjoy preferential terms of access to the Community market, so that the principle of Community preference is difficult to apply in practice to products obtained from the French overseas departments; whereas, for the French overseas departments, the neighbouring countries moreover represent a potential outlet for their products as the important tourist industry in the region is generally supplied with products from other sources at lower cost; whereas greater regional cooperation could provide the French

overseas departments with a means of making better use of this outlet; whereas this handicap too should be mitigated by means of appropriate measures;

Whereas numerous national rules specific to the French overseas departments have been adopted, many of them being of long standing, in order to promote their economic and social development; whereas the drive to complete the internal market requires that a decision be taken before 31 December 1992 on maintaining, modifying or abolishing these rules in accordance with the general principles of the Treaty, while taking into account the special constraints affecting the regions concerned;

Whereas it is important to have available regular means of transport, at the lowest cost, in order to overcome the obstacles posed by remoteness and insularity of the departments; whereas air transport is an instrument of regional development and the most appropriate forms of greater liberalization should be sought in the context of partnership with local authorities;

Whereas, in this context, traditional rum is a product of prime economic and social importance in the French overseas departments; whereas Council Decision 88/245/EEC⁽¹⁾ authorized France, notwithstanding Article 95 of the Treaty, to maintain special tax arrangements on the French internal market until 31 December 1992; whereas between now and then it will be necessary to study the implications of the threefold context of the new Community definition, the abandonment of the allocation among Member States of the quota granted to the ACP States and the abolition of the special tax arrangements after 1 January 1993; whereas, as a result, structural measures designed to safeguard the essential interests of Community rum producers should be taken as soon as possible;

Whereas, in this context also, the French overseas departments have their own tax arrangements, particularly in the form of dock dues, which encourage self-reliant management by local authorities in their own development by providing them with own resources and help support local production activities; whereas completion of the internal market will require that this system be adapted in order to make it compatible with Community law while fostering its function as an effective instrument for development in the regions concerned;

Whereas in the context of rationalizing the aims of the Structural Funds, the Brussels European Council of 12 and 13 February 1988 laid down five priority objectives, including promotion of the development and structural adjustment of the less-developed regions; whereas it explicitly and definitively included the French overseas departments in the list of regions covered by this objective and stated that contributions to all the less-developed regions from the Structural Funds would be doubled in real terms between 1987 and 1992; whereas assistance for the French overseas departments will be provided from the Structural Funds, the European Investment Bank and the other existing financial instruments on the basis of the corresponding Community support framework, in a coordinated and

⁽¹⁾ OJ No L 106, 27. 4. 1988, p. 33.

concentrated manner that will be complementary to national and local initiatives, pursuant to Regulation (EEC) No 2052/88 ⁽¹⁾;

Whereas a programme which is both cohesive and which combines all the aid mechanisms of the Community and the national and regional authorities may permit optimum and more effective use of the resources of the Structural Funds;

Whereas such programming must provide a guarantee of the active involvement of local, regional and national authorities and the complementarity of Community measures, in compliance with the principles of partnership and a joint contribution;

Whereas, moreover, the French overseas departments are surrounded, in their two geographical areas, by States and territories with which the Community maintains relations of a varied nature, which take the form of cooperation policies that are relatively uncoordinated; whereas, however, the development of the different constituents of a given geographical area, each of which has similar constraints and characteristics, requires the implementation of regional projects common to the various constituents, irrespective of their status in relation to Community law, as this makes it possible to achieve economies of scale and strengthens regional cooperation among the partners concerned;

Whereas, furthermore, these neighbouring entities are traditionally faced with similar problems despite their differing legal status; whereas regional cooperation that is geared to local realities involves more direct dialogue between the parties concerned; whereas it is therefore appropriate to foster regional consultation procedures, in close cooperation with the Member States concerned in the case of regions or territories that are the responsibility of Member States,

HAVE DECIDED AS FOLLOWS:

Article 1

A multiannual action programme for the French overseas departments, known as Poseidom (Programme of options specific to the remote and insular nature of the French overseas departments) contained in the Annex, is hereby established. This programme shall deal with legislative measures and financial commitments.

The Council shall adopt, to the extent to which it is concerned, the provisions necessary for the execution of this programme and invite the Commission to submit to it as soon as possible relevant proposals.

Article 2

This Decision shall take effect on 1 January 1990.

Article 3

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

Done at Brussels, 22 December 1989.

For the Council
The President
E. CRESSON

⁽¹⁾ OJ No L 185, 15. 7. 1988, p. 9.

ANNEX

PROGRAMME OF OPTIONS SPECIFIC TO THE REMOTE AND INSULAR NATURE OF THE FRENCH OVERSEAS DEPARTMENTS (POSEIDOM)

TITLE I

General principles

1. Poseidom will be based on the twofold principle that the French overseas departments form an integral part of the Community and that the regional reality, characterized by the special features and constraints specific to the regions concerned as distinct from the Community as a whole, must be recognized.
- 2.1. Implementation of the Poseidom programme will in principle be carried out from 1 January 1990 to 31 December 1992, through the adoption either by the Council or by the Commission, as appropriate, of the necessary legal acts, in accordance with the provisions and procedures laid down in the Treaty.
- 2.2. Given the permanent and specific constraints on the French overseas departments, certain measures under the programme may continue to apply after 31 December 1992 so as to make possible the economic and social development of these areas.
3. The Poseidom programme will help attain the general aims of the Treaty by contributing to the achievement of the following specific objectives:
 - (a) making possible the realistic integration of the French overseas departments into the Community by establishing an appropriate framework for the application of common policies in those areas;
 - (b) helping the French overseas departments catch up economically and socially, with a view to the completion of the internal market by 31 December 1992, through coordinated and concentrated action involving the Structural Funds, the European Investment Bank and other existing financial instruments; measures adopted by national or regional authorities must be integrated with such actions.
4. The Poseidom programme will help attain the aims listed in Annex VII to the Final Act of the Third Lomé Convention and in the identical Declaration attached to the Fourth ACP-EEC Convention, signed at Lomé on 15 December 1989, as well as in the first part of Title VII of Council Decision 86/283/EEC of 30 June 1986 on the association of the overseas countries and territories with the European Economic Community⁽¹⁾, as amended by Decision 87/341/EEC⁽²⁾, and in the corresponding provisions of the Decision which will succeed it, whose aim is to promote regional cooperation in the developing areas where the French overseas departments are situated, notably through the provision of appropriate instruments for participating in joint regional projects or programmes.

TITLE II

Application of common policies in the French overseas departments

5. Community measures already taken for the French overseas departments will be maintained, extended or adapted in accordance with this Decision in order to provide a better response to their specific characteristics and the need to make their economic and social development possible.
6. Directives or other measures to be adopted in connection with the internal market, social matters, technological research and development, without prejudice to the Community framework programme on this topic, and environmental protection will have to take into account the special character of the French overseas departments and the need to make their economic and social development possible.
7. The Community and the Member State will develop any actions designed to enable the multiplicity of Community airlines, particularly local airlines, to serve the French overseas departments in the interests of their development.

⁽¹⁾ OJ No L 175, 1. 7. 1986, p. 1.

⁽²⁾ OJ No L 173, 30. 6. 1987, p. 10.

- 8.1. On the basis of a product-by-product analysis to be carried out by the Commission in the light of objective criteria, agricultural products not covered by common measures shall qualify for *ad hoc* measures which may take the form of assistance for processing or marketing, while not ruling out, in particular cases, the possibility of assistance for production. The Council or the Commission, as appropriate, will adopt the first measures necessary to this end within six months of the date on which this Decision takes effect.

- 8.2. In view of the economic and social importance of bananas for the French overseas departments and the objective of a fair standard of living for producers, the Commission will, without waiting for the adoption of common rules in particular under Structural Fund rules, decide on actions to assist this sector. With a view to improving the conditions of production and competition, such actions will take the form *inter alia* of measures concerning research, harvesting, processing and treatment, transport, storage, marketing and commercial promotion.

The Council will, on a proposal from the Commission, give a ruling on provisions for bananas with a view to the completion of the single market between now and 31 December 1992.

- 8.3. In the case of rum, the Commission will examine the economic and social implications of the threefold context of the new Community definition, the changes agreed under the negotiations for the Fourth ACP-EEC Convention regarding access to the Community market of rum originating in the ACP States, and the abolition of the special tax arrangements, taking into account the interests of Community producers and producers in territories and third countries in respect of which the Community has given specific undertakings.

The Council and the Commission, each to the extent to which it is concerned, will adopt as soon as possible the structural measures required to safeguard the essential interests of Community rum producers in order to improve their competitiveness, restructure the chain and assist the marketing of their production with a view to the gradual abolition of national shares. The Commission will submit the relevant proposals to the Council by 30 June 1990. It will report by 31 December 1992 on the situation of Community producers and on the implementation of the above measures.

- 9.1. Within six months from the date on which this Decision takes effect the Council or the Commission, as appropriate, will take action intended to mitigate the effects of the exceptional geographical situation of the French overseas departments in relation to the continental territory of the Community, taking into account the aims of regional cooperation.

Such action shall take the form of measures, on the one hand, to facilitate supplies to the French overseas departments and, on the other, to assist certain lines of agricultural production in the French overseas departments.

- 9.2. Regarding supplies to the French overseas departments, the latter will benefit from the following measures:

- (a) firstly, the measures in question will concern inputs for local livestock farming; to that end, grain originating in developing countries and intended for livestock production will be exempted from the levy when imported directly into the French overseas departments.

Where there are difficulties recognized by the Commission with supplies of such products originating in developing countries, this measures may, by way of exception, be extended to grain originating in other third countries;

- (b) secondly, the measures in question may also concern products intended for human consumption; such products originating in the overseas countries and territories or the ACP States may be exempted from the levy or, where appropriate, from customs duty when imported directly into the French overseas departments.

Where there are difficulties recognized by the Commission with supplies of such products originating in the overseas countries and territories or neighbouring ACP States, this measure may be extended to products originating in other developing countries;

- (c) the measures referred to in (a) and (b) will be limited to local market requirements and involve measures making it possible to ensure that the products in question are not re-dispatched to the rest of the Community.

- 9.3. Regarding their production of agricultural products, the French overseas departments will benefit from the following measures to be adopted on the basis of a product-by-product analysis to be carried out by the Commission in the light of objective criteria:

- (a) provision will be made for Community measures to develop certain lines of production for which there are outlets on the French overseas departments' own markets, on the markets of neighbouring areas or on the markets of the rest of the Community;
 - (b) in the case of other lines of production, provision may be made for measures taking particular account of the effectiveness of their contribution to the economic and social development of the French overseas departments.
- 10.1. National measures which have specific effects favouring the French overseas departments shall be listed systematically in order that a decision may be taken before 31 December 1992 on whether to maintain, modify or abolish them in line with the general principles of the Treaty, while taking into account the special constraints on those areas.
- 10.2. With regard to aid within the meaning of Article 92 of the Treaty, the Commission:
 - (a) will, after compiling the list of measures referred to in paragraph 1, examine the aid in the light of that provision and shall adopt measures within the scope of its powers or, where appropriate, shall propose to the Council any measures that prove necessary, pursuant to Articles 92, 93 and 94 of the Treaty, taking into account the specific position of the French overseas departments and the impact of the Community measures provided for in this programme or adopted in implementation of it;
 - (b) shall continue, even after 31 December 1992, to examine at regular intervals the aid given with a view to making any changes required by developments in the situation.
- 11. The system of charges applied in the French overseas departments under the heading of dock dues shall be converted in accordance with Decision 89/688/EEC⁽¹⁾.

TITLE III

Action involving the Structural Funds, the European Investment Bank and other financial instruments

- 12.1. The aims and procedures set out in Regulation (EEC) No 2052/88 will apply, as from the entry into force of the Regulation and on the terms laid down therein, to assistance to the French overseas departments from the Structural Funds, the European Investment Bank and other existing financial instruments with a view to promoting their development and structural adjustment.
- 12.2. Structural aid will take account of the additional handicaps of remoteness and insularity borne by the French overseas departments.
- 12.3. Pursuant to Article 8 of Regulation (EEC) No 2052/88, the French authorities and the Commission will ensure that measures to assist the French overseas departments that are covered by Community support frameworks are carried out primarily through the implementation of operational programmes, in accordance with the principles of partnership and additionality.
- 12.4. Within the scope of its powers and in accordance with the eligibility rules of the Structural Funds the Commission will speed up the grant of assistance in cases where aid from the Funds is needed to repair damage caused by natural disasters endemic to the tropical regions concerned, notably hurricanes; where such repair is not covered by emergency aid.

TITLE IV

Regional cooperation

- 13.1. In order to make possible better regional cooperation, consultations shall be encouraged between the different States, the overseas countries and territories and the French overseas departments in the geographical areas concerned, in conjunction with the authorities of the relevant Member States in the case of the French overseas departments and the overseas countries and territories.

⁽¹⁾ See page 46 of this Official Journal.

- 13.2. Regional trade cooperation could take the form of regional trade agreements, in accordance with the provisions of the Treaty.

Moreover, common commercial promotion measures by the French overseas departments, the overseas countries and territories and neighbouring ACP States could be financed, in accordance with the methods indicated in paragraph 3, in a way that is coordinated and complies with the respective rules and responsibilities of each Fund.

- 13.3. Within the framework of its management powers with regard to the Structural Funds, and in accordance with the eligibility rules of the said Funds, the Commission shall ensure that the French overseas departments receive assistance from the Structural Funds in the context of regional projects or programmes common to French overseas departments, overseas countries and territories and ACP States in the same geographical region, provided and to the extent that:

- these joint regional projects or programmes are those defined, as regards their aims, scope and procedural rules, in Articles 101 to 113 of the Third Lomé Convention, in Articles 54 to 66 of Decision 86/283/EEC and, once they enter into force, in the corresponding provisions of the Fourth Lomé Convention and in the Decision that will succeed that Decision,
- the procedural rules for financing these projects or programmes are those specific to each of the Community Funds concerned.

The Commission shall ensure coordination of the financing timetable and also of the subsequent implementation of the projects or programmes.

TITLE V

Final provision

14. The Commission shall submit to the Council an annual progress report on the implementation of the Poseidon programme.
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COUNCIL DECISION

of 22 December 1989

concerning the dock dues in the French overseas departments

(89/688/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 227 (2) and 235 thereof,

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

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

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

Whereas, pursuant to Article 227 (2) of the Treaty, the institutions of the Community will, within the framework of the procedures provided for in the Treaty, take care that the economic and social development of the French overseas departments is made possible; whereas, in the case in point, the Treaty has not provided the powers required to this end and it is therefore appropriate to have recourse to Article 235 of the Treaty;

Whereas action to promote the economic and social development of the French overseas departments in the past has taken the form of isolated measures; whereas, however, by means of Decision 89/687/EEC ⁽⁴⁾, the Council established an action programme for the said departments, known as 'Poseidom'; whereas this programme contains a tax component which needs to be implemented;

Whereas the dock dues at present constitute a means of support for local production, which has to contend with the problems of remoteness and insularity;

Whereas they also are a vital instrument of self-reliance and local democracy, the resources of which must constitute a means of economic and social development of the French overseas departments;

Whereas the dock dues system in its present form has features, however, which necessitate its reform as a means of integrating the French overseas departments fully into the process of completing the internal market, while taking account of their fragile economic structure;

Whereas this system should be adjusted, over a period of time that is convenient for both local and national authorities, into a system of internal taxation applicable to all products marketed in the French overseas departments;

Whereas, however, for the purposes of creating, maintaining and developing activities in the French overseas departments, it would be advisable to authorize the local authorities to exempt local activities either totally or partially, according to economic requirements, from the application of the new dock dues for a period not exceeding, in principle, 10 years;

Whereas, in order to see to it that exemptions comply with the rules of the Treaty and to ensure the necessary coordination with the general aims pursued by the Community, the Council should entrust the Commission with the task of giving a ruling, within a period of two months, bearing in mind the economic and social development strategy of each French overseas department, on the exemption arrangements, submitted by regional authorities, the object of which must be to help the economic and social development of these regions, in accordance with Article 227 (2) of the Treaty;

Whereas these exemption arrangements should be temporary and should normally be terminated 10 years after the reform of the system; whereas at the end of this time the tax arrangements should therefore as a rule be fully in line with the principles of Article 95 of the Treaty, it being understood that support measures with the same aims can still be adopted in the context of regional aid and in compliance with the provisions of Articles 92 to 94; whereas the Commission will present a report to the Council before the expiry of this 10-year period, concerning the implementation of the arrangements and their impact on the development of the overseas departments, together, where appropriate, with a proposal directed towards maintaining the possibility of exemptions;

Whereas, pending reform of dock dues, France should be authorized to maintain, until 31 December 1992 at the latest, dock dues arrangements in their present form, subject to certain conditions which guarantee that they affect the common market as little as possible and are used with the sole aim of Article 227 (2) of the Treaty,

HAS ADOPTED THIS DECISION,

Article 1

By 31 December 1992 at the latest, the French authorities shall take the necessary measures for the dock dues

⁽¹⁾ OJ No C 53, 2. 3. 1989, p. 12.

⁽²⁾ Opinion delivered on 14 December 1989 (not yet published in the Official Journal).

⁽³⁾ OJ No C 159, 26. 6. 1989, p. 56.

⁽⁴⁾ See page 39 of this Official Journal.

arrangements at present in force in the French overseas departments to apply, in accordance with the principles and procedures set out in Articles 2 and 3, to all products whether imported into or produced in those areas.

Article 2

1. The revenue from this tax shall be put to use by the competent authorities of each French overseas department in such a way as to encourage as effectively as possible its economic and social development. The Commission shall be informed at the earliest opportunity of the measures adopted by the competent authorities in order to achieve this objective.

2. The competent authorities of each French overseas department shall establish a basic rate of tax. This rate may be adjusted according to the categories of products. This adjustment shall in no case be such as to maintain or introduce discrimination against products from the Community.

3. In the light of the specific constraints on the French overseas departments and with a view to achieving the objective referred to in Article 227 (2) of the Treaty, partial or total exemptions from the charge according to economic requirements, may be authorized for local production activities for a period of not more than 10 years from the date of introduction of the system of changes under the conditions laid down in Article 3. These exemptions must contribute to the promotion or maintenance of an economic activity in the French overseas departments and be in line with the economic and social development strategy of each French overseas department, taking account of its Community aid framework, while not being such as to adversely affect the terms of trade to an extent contrary to the common interest.

Exemption arrangements adopted by the competent authorities in each French overseas department shall be notified to the Commission, which shall inform the Member States thereof and define its position within two months on the basis of the above criteria. If the Commission has not defined its position within that period, the arrangement shall be deemed to be approved.

The Commission shall submit to the Council a report on the implementation of the exemption arrangements no later than five years after the introduction of the system of charges in question.

Article 3

Not later than one year before the end of the period provided for in Article 2 (3), the Commission shall submit to the

Council a report on the implementation of the arrangements referred to in Article 2, in order to ascertain the impact of the measures adopted on the economies of the French overseas departments and their contribution to the promotion or maintenance of local economic activities. The matters to be covered in the report shall include the effect of the system of charges in question on the economic and social adjustment of the French overseas departments taking as criteria the level of unemployment, the balance of trade, the regional gross domestic product both on the free movement of products within the Community and on regional cooperation between the French overseas departments and their neighbours.

In the light of the report's conclusions, the Commission, taking into account the objective regarding the economic and social development of the French overseas departments set out in Article 227 (2) of the Treaty shall, if necessary, at the same time submit to the Council a proposal for maintaining the possibility of exemptions.

Support measures with the same objectives may be taken in the context of regional aid.

Article 4

Pending implementation of the reform of the dock dues arrangements in accordance with the principles set out in Article 1, the French Republic shall be authorized to maintain the current dock dues arrangements, until not later than 31 December 1992, on condition that any proposal concerning extension of the list of products subject to dock dues or any increase in the rates thereof is notified to the Commission, which may oppose it within two months. The Commission shall also examine with the competent local authorities any changes that have taken place since 1 January 1980.

Article 5

This Decision is addressed to the French Republic.

Done at Brussels, 22 December 1989.

For the Council

The President

E. CRESSON