

Directive 94/9/EC

DIRECTIVE 94/9/EC OF THE EUROPEAN PARLIAMENT AND THE COUNCIL OF 23 MARCH 1994 ON THE APPROXIMATION OF THE LAWS OF THE MEMBER STATES CONCERNING EQUIPMENT AND PROTECTIVE SYSTEMS INTENDED FOR USE IN POTENTIALLY EXPLOSIVE ATMOSPHERES

The European Parliament and the Council of the European Union having regard to the Treaty establishing the European Community, and in particular Article 100a thereof, having regard to the proposal from the Commission (1), having regard to the opinion of the Economic and Social Committee (2), acting in accordance with the procedure referred to in Article 189b of the Treaty establishing the European Community,

Whereas it is the duty of Member States to protect, on their territory, the safety and health of persons and, where appropriate, domestic animals and property and, in particular, that of workers, especially against the hazards resulting from the use of equipment and systems providing protection against potentially explosive atmospheres;

Whereas mandatory provisions within the Member States determine the level of safety to be achieved by protective equipment and systems intended for use in potentially explosive atmospheres; whereas these are generally electrical and non-electrical specifications having an effect on the design and structure of equipment which can be used in potentially explosive atmospheres;

Whereas the requirements to be met by such equipment differ from one Member State to another in respect of their extent and differing inspection procedures; whereas these differences are, therefore, likely to raise barriers to trade within the Community;

Whereas harmonization of national legislation is the only way in which to remove these barriers to free trade; whereas this objective cannot be satisfactorily achieved by the individual Member States; whereas this Directive merely lays down the requirements vital to freedom of movement for the equipment to which it applies;

Whereas the regulations intended to remove technical barriers to trade are required to follow the new approach provided for in the Council resolution of 7 May 1985 (3), which requires a definition of the essential requirements regarding safety and other requirements of society without reducing existing, justified levels of protection within the Member States; whereas that resolution provides that a very large number of products be covered by a single Directive in order to avoid frequent amendments and the proliferation of Directives;

Whereas the existing Directives on the approximation of the laws of the Member States to electrical equipment for use in potentially explosive atmospheres have made positive steps towards protection against explosions via measures linked with the structure of the equipment at issue and which have helped to remove barriers to trade in this area; whereas, in parallel, a revision and expansion of the existing Directives is necessary since, more particularly, in an overall context, action must be taken to guard against the potential hazards arising from such equipment. This implies in particular that measures intended to guarantee effective protection of users and third parties must already be contemplated at the design and manufacturing stages;

Whereas the form taken by the hazard, the protective measures and the test methods are often very similar, if not identical, for both mining and surface equipment; whereas it is, therefore, absolutely necessary to cover by a single Directive protective equipment and systems falling within both groups;

Whereas the two groups of equipment referred to above are used in a large number of commercial and industrial sectors and possess considerable economic significance;

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Whereas compliance with the basic safety and health requirements is essential in order to ensure the safety of protective equipment and systems; whereas those requirements have been subdivided into general and additional requirements which must be met by protective equipment and systems; whereas, in particular, the additional requirements are intended to take account of existing or potential hazards; whereas protective equipment and systems will, therefore, embody at least one of those requirements where this is necessary for their proper functioning or is to apply to their intended use; whereas the notion of intended use is of prime importance for the explosion-proofing of protective equipment and systems; whereas it is essential that manufacturers supply full information; whereas specific, clear marking of said equipment, stating its use in a potentially explosive atmosphere, is also necessary;

Whereas the intention is to prepare a Directive on operations in potentially explosive atmospheres which is based on Article 118a; whereas that additional Directive will, in particular, aim at explosion hazards which derive from a given use and/or types and methods of installation;

Whereas compliance with essential health and safety requirements is imperative if the safety of equipment is to be ensured; whereas judgment will have to be exercised in the implementation of those requirements in order to take account of both the technology obtaining at the time of manufacture and overriding technical and economic requirements;

Whereas, therefore, this Directive sets out essential requirements only; whereas, in order to facilitate the task of proving compliance with the essential requirements, harmonized European standards are necessary, more especially with regard to the non-electrical aspects of protection against explosions standards relating to the design, manufacture and testing of equipment, compliance with which enables a product to be presumed to meet such essential requirements; whereas harmonized European standards are drawn up by private bodies and must retain their non-mandatory status; whereas, for this purpose, the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC) are recognized as the bodies competent to adopt harmonized standards which follow the general guidelines for co-operation between the Commission and those two bodies, signed on 13 November 1984; whereas, for the purposes of this Directive, a harmonized standard is a technical specification (European Standard or harmonization document) adopted by one or other of those bodies, or by both, at the prompting of the Commission pursuant to Council Directive 83/189/EEC of the 28 March 1983 providing for a procedure governing the provision of information on technical standards and regulations(1) and pursuant to the general guidelines referred to above;

Whereas the legislative framework should be improved in order to ensure that employers and workers make an effective and appropriate contribution towards the standardization process; whereas this should be completed by the time this Directive is implemented;

Whereas, in view of the nature of the risks involved in the use of equipment in potentially explosive atmospheres it is necessary to establish procedures applying to the assessment of compliance with the basic requirements of the Directives; whereas these procedures must be devised in the light of the level of risk which may be inherent in equipment and/or against which systems must protect the immediate environment; whereas, therefore, each category of equipment conformity must be supplemented by an adequate procedure or a choice between several equivalent procedures; whereas the procedures adopted comply fully with Council Decision 93/465/EEC of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures which are intended to be used in the technical harmonization Directives(2);

Whereas the Council has provided for the affixing of the CE marking by either the manufacturer or his authorized representative within the Community; whereas that marking means that the product complies

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with all the basic requirements and assessment procedures provided for by the Community law applying to that product;

Whereas it is appropriate that the Member States, as provided for by Article 100a of the Treaty, may take temporary measures to limit or prohibit the placing on the market and the use of equipment and protective systems in cases where they present a particular risk to the safety of persons and, where appropriate, domestic animals or property, provided that the measures are subject to a Community control procedure;

Whereas the recipients of any decision taken as part of this Directive must be aware of the reasons behind that decision and the means of appeal open to them;

Whereas, on 18 December 1985, the Council adopted a framework Directive on electrical equipment for use in potentially explosive atmospheres (76/117/EEC) (3) and, on 15 February 1982, a Directive concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to fire damp (82/130/EEC) (4); whereas, from the outset of harmonization work, the conversion into total harmonization of the optional and partial harmonization on which these Directives are based had been contemplated; whereas this Directive fully covers the scope of the above mentioned Directives and whereas, therefore, these Directives must be repealed;

Whereas the internal market incorporates an area without internal frontiers within which the free movement of goods, persons, services and capital is assured;

Whereas it is necessary to provide for a transitional arrangement enabling equipment manufactured in compliance with the national regulations in force at the date of adoption of this Directive to be marketed and placed in service,

have adopted this Directive:

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CHAPTER 1

Scope, Placing on the Market and Freedom of Movement

ARTICLE I

1. This Directive applies to equipment and protective systems intended for use in potentially explosive atmospheres.
2. Safety devices, controlling devices and regulating devices intended for use outside potentially explosive atmospheres but required for or contributing to the safe functioning of equipment and protective systems with respect to the risks of explosion are also covered by the scope of this Directive.
3. For the purposes of this Directive, the following definitions shall apply:

Equipment and protective systems intended for use in potentially explosive atmospheres: a) 'Equipment' means machines, apparatus, fixed or mobile devices, control components and instrumentation thereof and detection or prevention systems which, separately or jointly, are intended for the generation, transfer, storage, measurement, control and conversion of energy for the processing of material and which are capable of causing an explosion through their own potential sources of ignition; b) 'Protective systems' means design units which are intended to halt incipient explosions immediately and/or to limit the effective range of explosion flames and explosion pressures. Protective systems may be integrated into equipment or separately placed on the market for use as autonomous systems; c) 'Components' means any item essential to the safe functioning of equipment and protective systems but with no autonomous function.

Explosive atmospheres - Mixture with air, under atmospheric conditions, of flammable substances in the form of gases, vapors, mists or dusts in which, after ignition has occurred, combustion spreads to the entire unburned mixture.

Potentially explosive atmosphere - An atmosphere which could become explosive due to local and operational conditions.

Equipment-groups and categories - Equipment-group I applies to equipment intended for use in underground parts of mines, and to those parts of surface installations of such mines, liable to be endangered by firedamp and/or combustible dust.

Equipment-group II applies to equipment intended for use in other places liable to be endangered by explosive atmospheres.

The categories of equipment defining the required levels of protection are described in Annex I.

Equipment and protective systems may be designed for a particular explosive atmosphere. In this case, they must be marked accordingly.

Intended use - The use of equipment, protective systems, and devices referred to in Article 1 (2) in accordance with the equipment-group and category and with all the information supplied by the manufacturer which is required for the safe functioning of equipment, protective systems and devices.

4. The following are excluded from the scope of this Directive:

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- Medical devices intended for use in a medical environment,
- Equipment and protective systems where the explosion hazard results exclusively from the presence of explosive substances or unstable chemical substances,
- Equipment intended for use in domestic and non-commercial environments where potentially explosive atmospheres may rarely be created, solely as a result of the accidental leakage of fuel gas,
- Personal protective equipment covered by Directive 89/686/EEC (1),
- Seagoing vessels and mobile offshore units together with equipment on board such vessels or units,
- Means of transport, i.e. vehicles and their trailers intended solely for transporting passengers by air or by road, rail or water networks, as well as means of transport in so far as such means are designed for transporting goods by air, by public road or rail networks or by water. Vehicles intended for use in a potentially explosive atmosphere shall not be excluded, the equipment covered by Article 223 (1) (b) of the Treaty.

ARTICLE 2

1. Member States shall take all appropriate measures to ensure that the equipment, protective systems and devices referred to in Article 1 (2) to which this Directive applies may be placed on the market and put into service only if, when properly installed and maintained and used for their intended purpose, they do not endanger the health and safety of persons and, where appropriate, domestic animals or property.
2. The provisions of this Directive shall not affect Member States' entitlement to lay down, in due observance of the provisions of the Treaty, such requirements as they may deem necessary to ensure that persons and, in particular, workers are protected when using the equipment, protective systems, and devices referred to in Article 1 (2) in question provided that this does not mean that such equipment, protective systems, or devices are modified in a way not specified in the Directive.
3. At trade fairs, exhibitions, demonstrations, etc., Member States shall not prevent the showing of equipment, protective systems, or the devices referred to in Article 1 (2) which do not conform to the provisions of this Directive, provided that a visible sign clearly indicates that such equipment, protective systems, and devices referred to in Article 1 (2) do not conform and that they are not for sale until they have been brought into conformity by the manufacturer or his authorized representative established in the Community. During demonstrations, adequate safety measures shall be taken to ensure the protection of persons.

ARTICLE 3

Equipment, protective systems, and the devices referred to in Article 1 (2) to which this Directive applies must meet the essential health and safety requirements set out in Annex II which apply to them, account being taken of their intended use.

ARTICLE 4

1. Member States shall not prohibit, restrict or impede the placing on the market and putting into service in their territory of equipment, protective systems, or devices referred to in Article 1 (2) which comply with this Directive.

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2. Member States shall not prohibit, restrict or impede the placing on the market of components which, accompanied by a certificate of conformity as referred to in Article 8 (3), are intended to be incorporated into equipment or protective systems within the meaning of this Directive.

ARTICLE 5

1. Member States shall regard as conforming to all the provisions of this Directive, including the relevant conformity assessment procedures laid down in chapter II:

- Equipment, protective systems, and devices referred to in Article 1 (2) accompanied by the EC declaration of conformity referred to in Annex X and bearing the CE marking provided for in Article 10,
- The components referred to in Article 4 (2), accompanied by the certificate of conformity referred to in Article 8 (3).

In the absence of harmonized standards, Member States shall take any steps which they deem necessary to bring to the attention of the parties concerned the existing national technical standards and specifications regarded as important or relevant to the proper implementation of the essential health and safety requirements in Annex II.

2. Where a national standard transposing a harmonized standard, the reference for which has been published in the Official Journal of the European Communities, covers one or more of the essential health and safety requirements, the equipment, protective system, device referred to in Article 1 (2), or the component referred to in Article 4 (2), constructed in accordance with that standard shall be presumed to comply with the relevant essential health and safety requirements.

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

3. Member States shall ensure that appropriate measures are taken to enable the social partners to influence the process of preparing and monitoring the harmonized standards at national level.

ARTICLE 6

1. Where a Member State or the Commission considers that the harmonized standards referred to in Article 5 (2) do not entirely satisfy the relevant essential health and safety requirements referred to in Article 3, the Commission or the Member State concerned shall bring the matter before the Committee set up under Directive 83/189/EEC, hereinafter referred to as 'the Committee', giving reasons therefore. The Committee shall deliver an opinion without delay. Upon receipt of the Committee's opinion, the Commission shall inform the Member States whether or not it is necessary to withdraw those standards from the published information referred to in Article 5 (2).

2. The Commission may adopt any appropriate measure with a view to ensuring the practical application in a uniform manner of this Directive in accordance with the procedure laid down in paragraph 3.

3. The Commission shall be assisted by a Standing Committee, consisting of representatives appointed by the Member States and chaired by a representative of the Commission. The Standing Committee shall draw up its own rules of procedure.

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.

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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.

4. The Standing Committee may furthermore examine any question relating to the application of this Directive and raised by its chairman either on the latter's initiative, or at the request of a Member State.

ARTICLE 7

1. When a Member State ascertains that equipment, protective systems or devices referred to in Article 1 (2) bearing the CE conformity marking and used in accordance with their intended use are liable to endanger the safety of persons and, where appropriate, domestic animals or property, it shall take all appropriate measures to withdraw such equipment or protective systems from the market, to prohibit the placing on the market, putting into service or use thereof, or to restrict free movement thereof. The Member State shall immediately inform the Commission of any such measure, indicating the reasons for its decision and, in particular, whether non-conformity is due to:

- (a) failure to satisfy the essential requirements referred to in Article 3;
- (b) incorrect application of the standards referred to in Article 5 (2);
- (c) shortcomings in the standards referred to in Article 5 (2).

2. The Commission shall enter into consultation with the parties concerned without delay. Where the Commission considers, after this consultation, that the measure is justified, it shall immediately so inform the Member State which took the initiative and the other Member States. Where the Commission considers, after this consultation, that the action is unjustified, it shall immediately so inform the Member State which took the initiative and the manufacturer or his authorized representative established within the Community. Where the decision referred to in paragraph 1 is based on a shortcoming in the standards and where the Member State at the origin of the decision maintains its position, the Commission shall immediately inform the Committee in order to initiate the procedures referred to in Article 6 (1).

3. Where equipment or a protective system which does not comply bears the CE conformity marking, the competent Member State shall take appropriate action against the person(s) having affixed the marking and shall so inform the Commission and the other Member States.

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

CHAPTER II

Conformity Assessment Procedures

ARTICLE 8

1. The procedures for assessing the conformity of equipment, including where necessary the devices referred to in Article 1 (2), shall be as follows:

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- (a) Equipment-group I and II, equipment-category M 1 and 1. The manufacturer or his authorized representative established in the Community must, in order to affix the CE marking, follow the CE type-examination procedure (referred to in Annex III), in conjunction with:
- the procedure relating to production quality assurance (referred to in Annex IV), or
 - the procedure relating to product verification (referred to in Annex V);
- (b) Equipment-group I and II, equipment-category M 2 and 2
- (i) In the case of internal combustion engines and electrical equipment in these groups and categories, the manufacturer or his authorized representative established in the Community shall, in order to affix the CE mark, follow the EC-type examination procedure (referred to in Annex III), in conjunction with:
- the procedure relating to conformity to type referred to in Annex VI, or
 - the procedure relating to product quality assurance referred to in Annex VII;
- (ii) In the case of other equipment in these groups and categories, the manufacturer or his authorized representative established in the Community must, in order to affix the CE mark, follow the procedure relating to internal control of production (referred to in Annex VIII) and communicate the dossier provided for in Annex VIII, paragraph 3, to a notified body, which shall acknowledge receipt of it as soon as possible and shall retain it.
- (c) Equipment-group II, equipment-category 3. The manufacturer or his authorized representative established in the Community must, in order to affix the CE marking, follow the procedure relating to internal control of production referred to in Annex VIII;
- (d) Equipment-groups I and II. In addition to the procedures referred to in paragraph 1(a), (b) and (c), the manufacturer or his authorized representative established in the Community may also, in order to affix the CE marking, follow the procedure relating to CE unit verification (referred to in Annex IX).
2. The provisions of 1(a) or 1(d) above shall be used for conformity assessment of autonomous protective systems.
3. The procedures referred to in paragraph 1 shall be applied in respect of components as referred to in Article 4 (2), with the exception of the affixing of the CE marking. A certificate shall be issued by the manufacturer or his authorized representative established in the Community, declaring the conformity of the components with the provisions of this Directive which apply to them and stating their characteristics and how they must be incorporated into equipment or protective systems to assist compliance with the essential requirements applicable to finished equipment or protective systems.
4. In addition, the manufacturer or his authorized representative established in the Community may, in order to affix the CE marking, follow the procedure relating to internal control of production (referred to in Annex VIII) with regard to the safety aspects referred to in point 1.2.7 of Annex II.
5. Notwithstanding the previous paragraphs, the competent authorities may, on a duly justified request, authorize the placing on the market and putting into service on the territory of the Member State concerned of the equipment, protective systems and individual devices referred to in Article 1 (2) in respect of which the procedures referred to in the previous paragraphs have not been applied and the use of which is in the interests of protection.

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6. Documents and correspondence relating to the procedures referred to in the above mentioned paragraphs shall be drawn up in one of the official languages of the Member States in which those procedures are being applied or in a language accepted by the notified body.

7. (a) Where the equipment and protective systems are subject to other Community Directives covering other aspects which also provide for the affixing of the CE marking referred to in Article 10, that marking shall indicate that the equipment and protective systems are also presumed to conform with the provisions of those other Directives. (b) However, where one or more of those Directives allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate conformity only with the Directives applied by the manufacturer. In this case, particulars of the said Directives, as published in the Official Journal of the European Communities, must be given in the documents, notices or instructions required by the Directives and accompanying the equipment and protective systems.

ARTICLE 9

1. Member States shall notify the Commission and the other Member States of the bodies which they have appointed to carry out the procedures referred to in Article 8, together with the specific tasks which these bodies have been appointed to carry out and the identification numbers assigned to them beforehand by the Commission.

The Commission shall publish in the Official Journal of the European Communities a list of the notified bodies, with their identification numbers and the tasks for which they have been notified. The Commission shall ensure that this list is kept up-to-date.

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

3. A Member State which has approved a body must withdraw its notification if it finds that the body no longer meets the criteria referred to in Annex XI. It shall immediately inform the Commission and the other Member States accordingly.

CHAPTER III

CE Conformity Marking

ARTICLE 10

1. The CE conformity marking shall consist of the initials 'CE'. The form of the marking to be used is shown in Annex X. The CE marking shall be followed by the identification number of the notified body where such body is involved in the production control stage.

2. The CE marking shall be affixed distinctly, visibly, legibly and indelibly to equipment and protective systems, supplementary to the provisions of point 1.0.5. of Annex II.

3. The affixing of markings on the equipment or protective systems which are likely to deceive third parties as to the meaning and form of the CE marking shall be prohibited. Any other marking may be affixed to the equipment or protective systems, provided that the visibility and legibility of the CE marking is not thereby reduced.

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ARTICLE 11

Without prejudice to Article 7: (a) Where a Member State establishes that the CE marking has been incorrectly affixed, the manufacturer or his authorized representative established within the Community shall be obliged to make the product conform as regards to the provisions concerning the CE marking and to end the infringement under the conditions imposed by the Member State; (b) In the event of continuing non-conformity, the Member State must take all appropriate measures to restrict or prohibit the placing on the market of the product in question or to ensure that it is withdrawn from the market in accordance with the procedures laid down in Article 7.

CHAPTER IV

Final Provisions

ARTICLE 12

Any decision taken pursuant to this Directive which restricts or prohibits the placing on the market and/or the putting into service or requires the withdrawal from the market of equipment, a protective system, or a device referred to in Article 1 (2) shall state the exact grounds on which it is based. Such a decision shall be notified forthwith to the party concerned, who shall at the same time be informed of the legal remedies available to him under the laws in force in the Member State concerned and of the time limits to which such remedies are subject.

ARTICLE 13

Member States shall ensure that all the parties involved in the application of the Directive are bound to observe confidentiality in respect of all information obtained in the performance of carrying out their tasks. This does not affect the obligations of the Member States and of the notified bodies regarding reciprocal information and the dissemination of warnings.

ARTICLE 14

1. Directive 76/117/EEC, Directive 79/196/EEC(1) and Directive 82/130/EEC shall be repealed as from July 1, 2003.

2. EC certificates of conformity to the harmonized standards obtained in accordance with the procedures laid down in the Directives referred to in paragraph 1 shall continue to be valid until June 30, 2003 unless they expire before that date. Their validity shall continue to be limited to the harmonized standards indicated in the aforementioned Directives.

3. Member States shall take the necessary action to ensure that the notified bodies which are responsible pursuant to Article 8 (1) to (4) for the assessment of the conformity of electrical equipment placed on the market before July 1, 2003 take account of the results of tests and verifications already carried out under the Directives referred to in paragraph 1.

ARTICLE 15

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive before September 1, 1995. They shall forthwith inform the Commission thereof. The Member States shall apply these measures with effect from March 1, 1996.

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

2. However, Member States shall allow the placing on the market and the putting into service of equipment and protective systems conforming with the national regulations in force in their territory at the date of adoption of this Directive for the period until June 30, 2003.

ARTICLE 16

This Directive is addressed to the Member States. Done at Brussels, March 23, 1994. For the European Parliament, the President E. KLESCH. For the Council, the President TH. PANGALOS

ANNEX I

Criteria Determining the Classification of Equipment-Groups Into Categories

1. Equipment-group I

(a) Category M 1 comprises equipment designed and, where necessary, equipped with additional special means of protection to be capable of functioning in conformity with the operational parameters established by the manufacturer and ensuring a very high level of protection. Equipment in this category is intended for use in underground parts of mines as well as those parts of surface installations of such mines endangered by firedamp and/or combustible dust.

Equipment in this category is required to remain functional, even in the event of rare incidents relating to equipment, with an explosive atmosphere present, and is characterized by means of protection such that:

- either, in the event of failure of one means of protection, at least an independent second means provides the requisite level of protection, or
- the requisite level of protection is assured in the event of two faults occurring independently of each other.

Equipment in this category must comply with the supplementary requirements referred to in Annex II, 2.0.1.

(b) Category M 2 comprises equipment designed to be capable of functioning in conformity with the operational parameters established by the manufacturer and ensuring a high level of protection. Equipment in this category is intended for use in underground parts of mines as well as those parts of surface installations of such mines likely to be endangered by firedamp and/or combustible dust. This equipment is intended to be de-energized in the event of an explosive atmosphere.

The means of protection relating to equipment in this category assure the requisite level of protection during normal operation and also in the case of more severe operating conditions, in particular those arising from rough handling and changing environmental conditions.

Equipment in this category must comply with the supplementary requirements referred to in Annex II, 2.0.2.

2. Equipment-group II

(a) Category 1 comprises equipment designed to be capable of functioning in conformity with the operational parameters established by the manufacturer and ensuring a very high level of protection. Equipment in this

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category is intended for use in areas in which explosive atmospheres caused by mixtures of air and gases, vapors or mists or by air/dust mixtures are present continuously, for long periods or frequently.

Equipment in this category must ensure the requisite level of protection, even in the event of rare incidents relating to equipment, and is characterized by means of protection such that:

- either, in the event of failure of one means of protection, at least an independent second means provides the requisite level of protection, or
- the requisite level of protection is assured in the event of two faults occurring independently of each other.

Equipment in this category must comply with the supplementary requirements referred to in Annex II, 2.1.

(b) Category 2 comprises equipment designed to be capable of functioning in conformity with the operational parameters established by the manufacturer and of ensuring a high level of protection. Equipment in this category is intended for use in areas in which explosive atmospheres caused by gases, vapors, mists or air/dust mixtures are likely to occur.

The means of protection relating to equipment in this category ensure the requisite level of protection, even in the event of frequently occurring disturbances or equipment faults which normally have to be taken into account.

Equipment in this category must comply with the supplementary requirements referred to in Annex II, 2.2.

(c) Category 3 comprises equipment designed to be capable of functioning in conformity with the operating parameters established by the manufacturer and ensuring a normal level of protection. Equipment in this category is intended for use in areas in which explosive atmospheres caused by gases, vapors, mists, or air/dust mixtures are unlikely to occur or, if they do occur, are likely to do so only infrequently and for a short period only. Equipment in this category ensures the requisite level of protection during normal operation.

Equipment in this category must comply with the supplementary requirements referred to in Annex II, 2.3.

ANNEX II

Essential Health and Safety Requirements Relating to the Design and Construction of Equipment and Protective Systems Intended For Use in Potentially Explosive Atmospheres

Preliminary Observations

A. Technological knowledge, which can change rapidly, must be taken into account as far as possible and be utilized immediately.

B. For the devices referred to in Article 1 (2), the essential requirements shall apply only in so far as they are necessary for the safe and reliable functioning and operation of those devices with respect to the risks of explosion.

Common Requirements For Equipment and Protective Systems

1 .0. General Requirements

1.0.1. Principles of Integrated Explosion Safety

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Equipment and protective systems intended for use in potentially explosive atmospheres must be designed from the point of view of integrated explosion safety. In this connection, the manufacturer must take measures:

- above all, if possible, to prevent the formation of explosive atmospheres which may be produced or released by equipment and by protective systems themselves;
- to prevent the ignition of explosive atmospheres, taking into account the nature of every electrical and non-electrical source of ignition;
- should an explosion nevertheless occur which could directly or indirectly endanger persons and, as the case may be, domestic animals or property, to halt it immediately and/or to limit the range of explosion flames and explosion pressures to a sufficient level of safety.

Equipment and protective systems must be designed and manufactured after due analysis of possible operating faults in order as far as possible to preclude dangerous situations. Any misuse which can reasonably be anticipated must be taken into account.

1.0.3. Special Checking and Maintenance Conditions

Equipment and protective systems subject to special checking and maintenance conditions must be designed and constructed with such conditions in mind.

1.0.4. Surrounding Area Conditions

Equipment and protective systems must be so designed and constructed as to be capable of coping with actual or foreseeable surrounding area conditions.

1.0.5. Marking

All equipment and protective systems must be marked legibly and indelibly with the following minimum particulars:

- name and address of the manufacturer;
- CE marking (see Annex X, point A);
- designation of series or type;
- serial number, if any;
- year of construction;
- the specific marking of explosion protection followed by the symbol of the equipment-group and category;
- for equipment-group II, the letter G' (concerning explosive atmospheres caused by gases, vapors or mists),

and/or the letter 'D' (concerning explosive atmospheres caused by dust). Furthermore, where necessary, they must also be marked with all information essential to their safe use.

1.0.6. Instructions

(a) All equipment and protective systems must be accompanied by instructions, including at least the following particulars:

- a recapitulation of the information with which the equipment or protective system is marked, except for the serial number (see 1.0.5.), together with any appropriate additional information to facilitate maintenance (e.g. address of the importer, repairer, etc.);
- instructions for safe:

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- putting into service,
 - use,
 - assembling and dismantling,
 - maintenance (servicing and emergency repair),
 - installation,
 - adjustment;
 - where necessary, an indication of the danger areas in front of pressure-relief devices;
 - where necessary, training instructions;
 - details which allow a decision to be taken beyond any doubt as to whether an item of equipment in a specific category or a protective system can be used safely in the intended area under the expected operating conditions;
 - electrical and pressure parameters, maximum surface temperatures and other limit values;
 - where necessary, special conditions of use, including particulars of possible misuse which experience has shown might occur;
 - where necessary, the essential characteristics of tools which may be fitted to the equipment or protective system.
- (b) The instructions must be drawn up in one of the Community languages by the manufacturer or his authorized representative established in the Community. On being put into service, all equipment and protective systems must be accompanied by a translation of the instructions in the language or languages of the country in which the equipment or protective system is to be used and by the instructions in the original language. This translation must be made by either the manufacturer or his authorized representative established in the Community or the person introducing the equipment or protective system into the language area in question. by way of derogation from this requirement, the maintenance instructions for use by the specialist personnel employed by the manufacturer or his authorized representative established in the Community may be drawn up in a single Community language understood by that personnel.
- (c) The instructions must contain the drawings and diagrams necessary for the putting into service, maintenance, inspection, checking of correct operation and, where appropriate, repair of the equipment or protective system, together with all useful instructions, in particular with regard to safety.
- (d) Literature describing the equipment or protective system must not contradict the instructions with regard to safety aspects.

1.1. Selection of Materials

1.1.1. The materials used for the construction of equipment and protective systems must not trigger off an explosion, taking into account foreseeable operational stresses.

1.1.2. Within the limits of the operating conditions laid down by the manufacturer, it must not be possible for a reaction to take place between the materials used and the constituents of the potentially explosive atmosphere which could impair explosion protection.

1.1.3. Materials must be so selected that predictable changes in their characteristics and their compatibility in combination with other materials will not lead to a reduction in the protection afforded; in particular, due account must be taken of the material's corrosion and wear resistance, electrical conductivity, impact strength, ageing resistance and the effects of temperature variations.

1 .2. Design and Construction

Directive 94/9/EC

1.2.1. Equipment and protective systems must be designed and constructed with due regard to technological knowledge of explosion protection so that they can be safely operated throughout their foreseeable lifetime.

1.2.2. Components to be incorporated into or used as replacements in equipment and protective systems must be designed and constructed that they function safely for their intended purpose of explosion protection when they are installed in accordance with the manufacturer's instructions.

1.2.3. Enclosed Structures and Prevention of Leaks

Equipment which may release flammable gases or dusts must wherever possible employ enclosed structures only. If equipment contains openings or non-tight joints, these must as far as possible be designed in such a way that developing gases or dusts cannot give rise to explosive atmospheres outside the equipment. Points where materials are introduced or drawn off must, as far as possible, be designed and equipped so as to limit escapes of flammable materials during filling (or draining).

1.2.4. Dust Deposits

Equipment and protective systems which are intended to be used in areas exposed to dust must be so designed that deposit dust on their surfaces is not ignited. In general, dust deposits must be limited where possible. Equipment and protective systems must be easily cleanable. The surface temperatures of equipment parts must be kept well below the glow temperature of the deposit dust. The thickness of deposit dust must be taken into consideration and, if appropriate, means must be taken to limit the temperature in order to prevent a heat build up.

1.2.5. Additional Means of Protection

Equipment and protective systems which may be exposed to certain types of external stresses must be equipped, where necessary, with additional means of protection. Equipment must withstand relevant stresses, without adverse effect on explosion protection.

1.2.6. Safe Opening

If equipment and protective systems are in a housing or a locked container forming part of the explosion protection itself, it must be possible to open such housing or container only with a special tool or by means of appropriate protection measures.

1.2.7. Protection Against Other Hazards

Equipment and protective systems must be so designed and manufactured as to:

- (a) avoid physical injury or other harm which might be caused by direct or indirect contact;
- (b) assure that surface temperatures or accessible parts or radiation which would cause a danger, are not produced;
- (c) eliminate non-electrical dangers which are revealed by experience;
- (d) assure that foreseeable conditions of overload shall not give rise to dangerous situations.

Where, for equipment and protective systems, the risks referred to in this paragraph are wholly or partly covered by other Community Directives, this Directive shall not apply or shall cease to apply in the case of such equipment and protective systems and of such risks upon application of those specific Directives.

1.2.8. Overloading of Equipment

Directive 94/9/EC

Dangerous overloading of equipment must be prevented at the design stage by means of integrated measurement, regulation and control devices, such as over-current cut-off switches, temperature limiters, differential pressure switches, flowmeters, time-lag relays, overspeed monitors and/or similar types of monitoring devices.

1.2.9 Flameproof Enclosure Systems

If parts which can ignite an explosive atmosphere are placed in an enclosure, measures must be taken to ensure that the enclosure withstands the pressure developed during an internal explosion of an explosive mixture and prevents the transmission (if the explosion to the explosive atmosphere surrounding the enclosure.

1.3. Potential Ignition Sources

1.3.1. Hazards Arising From Different Ignition Sources

Potential ignition sources such as sparks, flames, electric arcs, high surface temperatures, acoustic energy, optical radiation, electromagnetic waves and other ignition sources must not occur.

1.3.2. Hazards Arising From Static Electricity

Electrostatic charges capable of resulting in dangerous discharges must be prevented by means or appropriate measures.

1.3.3. Hazards Arising From Stray Electric and Leakage Currents

Stray electric and leakage currents in conductive equipment parts which could result in, for example, the occurrence of dangerous corrosion, overheating of surfaces or sparks capable of provoking an ignition must be prevented.

1.3.4. Hazards Arising From Overheating

Overheating caused by friction or impacts occurring, for example, between materials and parts in contact with each other while rotating or through the intrusion of foreign bodies must, as far as possible, be prevented at the design stage.

1.3.5. Hazards Arising From Pressure Compensation Operations

Equipment and protective systems must be so designed or fitted with integrated measuring, control and regulation devices that pressure compensations arising from them do nor generate shock waves or compressions which may cause ignition.

1.4. Hazards Arising From External Effects

1.4.1. Equipment and protective systems must be so designed and constructed as to he capable of performing their intended function in full safety, even in changing environmental conditions and in the presence of extraneous voltages, humidity, vibrations, contamination and other external effects, taking into account the limits of the operating conditions established by the manufacturer.

1.4.2. Equipment parts used must be appropriate to the intended mechanical and thermal stresses and capable of withstanding attack by existing or foreseeable aggressive substances.

1.5. Requirements in Respect of Safety-Related Devices

Directive 94/9/EC

1.5.1. Safety devices must function independently of any measurement or control devices required for operation. As far as possible, failure of a safety device must be detected sufficiently rapidly by appropriate technical means to ensure that there is only very little likelihood that dangerous situations will occur. For electrical circuits the fail-safe principle is to be applied in general. Safety-related switching must in general directly actuate the relevant control devices without intermediate software command.

1.5.2. In the event of a safety device failure, equipment and/or protective systems shall, wherever possible, be secured.

1.5.3. Emergency stop controls of safety devices must, as far as possible, be fitted with restart lockouts. A new start command may take effect on normal operation only after the restart lockouts have been intentionally reset.

1.5.4. Control and Display Units

Where control and display units are used, they must be designed in accordance with ergonomic principles in order to achieve the highest possible level of operating safety with regard to the risk of explosion.

1.5.5 Requirements in respect of devices with a measuring function for explosion protection

In so far as they relate to equipment used in explosive atmospheres, devices with a measuring function must be designed and constructed so that they can cope with foreseeable (operating requirements and special conditions of use.

1.5.6. Where necessary, it must be possible to check the reading accuracy and serviceability of devices with a measuring function.

1.5.7 The design of devices with a measuring function must incorporate a safety factor which ensures that the alarm threshold lies far enough outside the explosion and/or ignition limits of the atmospheres to be registered, taking into account, in particular, the operating conditions of the installation and possible aberrations in the measuring system.

1.5.8 Risks Arising From Software

In the design of software-controlled equipment, protective systems and safety devices, special account must be taken of the risks arising from faults in the program.

1.6. Integration of Safety Requirements Relating to the System

1.6.1. Manual override must be possible in order to shut down the equipment and protective systems incorporated within automatic processes which deviate from the intended operating conditions, provided that this does not compromise safety.

1.6.2. When the emergency shutdown system is actuated, accumulated energy must be dispersed as quickly and as safely as possible or isolated so that it no longer constitutes a hazard. This does not apply to electrochemically—stored energy.

1.6.3. Hazards Arising From Power Failure

Where equipment and protective systems can give rise to a spread of additional risks in the event of a power failure, it must be possible to maintain them in a safe state of operation independently of the rest of the installation.

1.6.4. Hazards Arising From Connections

Equipment and protective systems must be fitted with suitable cable and conduit entries. When equipment and protective systems are intended for use in combination with other equipment and protective systems, the interface must be safe.

1.6.5. Placing of Warning Devices as Parts of Equipment

Where equipment or protective systems are fitted with detection or alarm devices first monitoring the occurrence of explosive atmospheres, the necessary instructions must be provided to enable them to be provided at the appropriate places.

Supplementary Requirements in Respect of Equipment

2.0. Requirements applicable to equipment in category M of equipment-group I

2.0.1. Requirements applicable to equipment in category M I of equipment-group I

2.0.1.1. Equipment must be so designed and constructed that sources of ignition do not become active, even in the event of rare incidents relating to equipment. Equipment must be equipped with means of protection such that:

- either, in the event of failure of the means of protection, at least an independent second means provides the requisite level of protection, or
- the requisite level of protection is ensured in the event of two faults occurring independently of each other.

Where necessary, this equipment must be equipped with additional special means of protection. It must remain functional with an explosive atmosphere present.

2.0.1.2. Where necessary, equipment must be so constructed that no dust can penetrate it.

2.0.1.3. The surface temperatures of equipment parts must be kept clearly below the ignition temperature of the foreseeable air/dust mixtures in order to prevent the ignition of suspended dust.

2.0.1.4. Equipment must be so designed that the opening of equipment parts which may be sources of ignition is possible only under non-active or intrinsically safe conditions. Where it is not possible to render equipment non-active, the manufacturer must affix a warning label to the opening part of the equipment. If necessary, equipment must be fitted with appropriate additional interlocking systems.

2.0.2. Requirements applicable to equipment in category M 2 or equipment-group I

2.0.2.1. Equipment must be equipped with means of protection ensuring that sources of ignition do not become active during normal operation, even under more severe operating conditions, in particular those arising from rough handling and changing environmental conditions. The equipment is intended to be de-energized in the event of an explosive atmosphere.

2.0.2.2. Equipment must be so designed that the opening of equipment parts which may be sources of ignition is possible only under non-active conditions or via appropriate interlocking systems. Where it is not possible to render equipment non-active, the manufacturer must affix a warning label to the opening part of

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the equipment. The requirements regarding explosion hazards arising from dust applicable to category M 1 must be applied.

2.1. Requirements Applicable to Equipment in Category I of Equipment-Group II

2.1.1. Explosive Atmospheres Caused by Gases, Vapors or Hazes

2.1.1.1. Equipment must be so designed and constructed that sources of ignition do not become active, even in event of rare incidents relating to equipment. It must be equipped with means of protection such that:

- either, in the event of failure of one means of protection, at least an independent second means provides the requisite level of protection, or
- the requisite level of protection is ensured in the event of two faults occurring independently of each other.

2.1.1.2. For equipment with surfaces which may heat up, measures must be taken to ensure that the stated maximum surface temperatures are not exceeded even in the most unfavorable circumstances. Temperature rises caused by heat build-ups and chemical reactions must also be taken into account.

2.1.1.3. Equipment must be so designed that the opening of equipment parts which might be sources of ignition is possible only under non-active or intrinsically safe conditions. Where it is not possible to render equipment non-active, the manufacturer must affix a warning label to the opening part of the equipment. If necessary, equipment must be fitted with appropriate additional interlocking systems.

2.1.2. Explosive Atmospheres Caused by Air/Dust Mixtures

2.1.2.1. Equipment must be so designed and constructed that ignition of air/dust mixtures does not occur even in the event of rare incidents relating to equipment. It must be equipped with means of protection such that:

- either, in the event of failure of one means of protection, at least an independent second means provides the requisite level of protection, or
- the requisite level of protection is ensured in the event of two faults occurring independently of each other.

2.1.2.2. Where necessary, equipment must be so designed that dust can enter or escape from the equipment only at specifically designated points. This requirement must also be met by cable entries and connecting pieces.

2.1.2.3. The surface temperatures of equipment parts must be kept well below the ignition temperature of the foreseeable air/dust mixtures in order to prevent the ignition of suspended dust.

2.1.2.4. With regard to the safe opening of equipment parts, requirement 2.1.1.3 applies.

2.2. Requirements for Category 2 of Equipment-Group II

2.2.1. Explosive Atmospheres Caused by Gases, Vapors or Mists

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2.2.1.1. Equipment must be so designed and constructed as to prevent ignition sources arising, even in the event of frequently occurring disturbances or equipment operating faults, which normally have to be taken into account.

2.2.1.2. Equipment parts must be so designed and constructed that their stand surface temperatures are not exceeded, even in the case of risks arising from abnormal situations anticipated by the manufacturer.

2.2.1.3. Equipment must be so designed that the opening of equipment parts which might be sources of ignition is possible only under non-active conditions or via appropriate interlocking systems. Where it is not possible to render equipment non-active, the manufacturer must affix a warning label to the opening part of the equipment.

2.2.2. Explosive Atmospheres Caused by Air/Dust Mixtures

2.2.2.1. Equipment must be designed and constructed so that ignition of air/dust mixtures is prevented, even in the event of frequently occurring disturbances or equipment operating faults which normally have to be taken into account.

2.2.2.2. With regard to surface temperatures, requirement 2.1.2.3 applies.

2.2.2.3. With regard to protection against dust, requirement 2.1.2.2 applies.

2.2.2.4. With regard to the safe opening of equipment parts, requirement 2.2.1.3 applies.

2.3. Requirements Applicable to Equipment in Category 3 of Equipment-Group II

2.3.1. Explosive Atmospheres Caused by Gases, Vapors Or Mists

2.3.1.1. Equipment must be so designed and constructed as to prevent foreseeable ignition sources which can occur during normal operation.

2.3.1.2. Surface temperatures must not exceed the stated maximum surface temperatures under intended operating conditions. Higher temperatures in exceptional circumstances may be allowed only if the manufacturer adopts special additional protective measures.

2.3.2. Explosive Atmospheres Caused by Air/Dust Mixtures

2.3.2.1. Equipment must be so designed and constructed that air/dust mixtures cannot be ignited by foreseeable ignition sources likely to exist during normal operation.

2.3.2.2. With regard to surface temperatures, requirement 2.1.2.3 applies.

2.3.2.3. Equipment, including cable entries and connecting pieces, must be so constructed that, taking into account the size of its particles, dust can neither develop explosive mixtures with air nor form dangerous accumulations inside the equipment.

3. Supplementary Requirements in Respect of Protective Systems

Directive 94/9/EC

3.0. General Requirements

3.0.1. Protective systems must be dimensioned in such a way as to reduce the effects of an explosion to a sufficient level of safety.

3.0.2. Protective systems must be designed and capable of being positional in such a way that explosions are prevented from spreading through dangerous chain reactions or flashover and incipient explosions do not become detonations.

3.0.3. In the event of a power failure, protective systems must retain their capacity to function for a period sufficient to avoid a dangerous situation.

3.0.4. Protective systems must not fail due to outside interference.

3.1. Planning and Design

3.1.1. Characteristics of Materials

With regard to the characteristics of materials, the maximum pressure and temperature to be taken into consideration at the planning stage are the expected pressure during an explosion occurring under extreme operating conditions and the anticipated heating effect of the flame.

3.1.2. Protective systems designed to resist or contain explosions must be capable of withstanding the shock wave produced without losing system integrity.

3.1.3. Accessories connected to protective systems must be capable of withstanding the expected maximum explosion pressure without losing their capacity to function.

3.1.4. The reactions caused by pressure in peripheral equipment and connected pipe-work must be taken into consideration in the planning and design of protective systems.

3.1.5. Pressure-Relief Systems

If it is likely that stresses on protective systems will exceed their structural strength, provision must be made in the design for suitable pressure-relief devices which do not endanger persons in the vicinity.

3.1.6. Explosion Suppression Systems

Explosion suppression systems must be so planned and designed that they react to an incipient explosion at the earliest possible stage in the event of an incident and counteract it to best effect, which due regard to the maximum rate of pressure increase and the maximum explosion pressure.

3.1.7. Explosion Decoupling Systems

Decoupling systems intended to disconnect specific equipment as swiftly as possible in the event of incipient explosions by means of appropriate devices must be planned and designed so as to remain proof against the transmission of internal ignition and to retain their mechanical strength under operating conditions.

3.1.8. Protective systems must be capable of being integrated into a circuit with a suitable alarm threshold so that, if necessary, there is cessation of product feed and output and shutdown of equipment parts which can no longer function safely.

ANNEX III

Module EC-Type Examination

1. This module describes that part of the procedure by which a notified body ascertains and attests that a specimen representative of the production envisaged meets the relevant applicable provisions of the Directive.

2. The application for the EC-type examination shall be lodged by the manufacturer or his authorized representative established within the Community with a notified body of his choice.

The application shall include:

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

The applicant shall place at the disposal of the notified body a specimen representative of the production envisaged and hereinafter called 'type'. The notified body may request further specimens it needed for carrying out the test program.

3. The technical documentation shall enable the conformity of the product with the requirements of the Directive to be assessed. It shall, to the extent necessary for such assessment, cover the design, manufacture and operation of the product and shall to that extent contain:

- a general type-description;
- design and manufacturing drawings and layouts of components, sub-assemblies, circuits, etc.;
- descriptions and explanations necessary for the understanding of said drawings and layouts and the operation of the product;
- a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements of the Directive where the standards referred to in Article 5 have not been applied;
- results of design calculations made, examinations carried out, etc.;
- test reports.

4. The notified body shall:

1. Examine the technical documentation, verify that the type has been manufactured in conformity with the technical documentation and identify the elements which have been designed in accordance with the relevant provisions of the standards referred to in Article 5, as well as the components which have been designed without applying the relevant provisions of those standards;

2. Perform or have performed the appropriate examinations and necessary tests to check whether the solutions adopted by the manufacturer meet the essential requirements of the Directive where the standards referred to in Article 5 have not been applied;

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3. Perform or have performed the appropriate examinations and necessary tests to check whether these have actually been applied, where the manufacturer has chosen to apply the relevant standards;
4. Agree with the applicant the location where the examinations and necessary tests shall be carried out.
5. Where the type meets the provisions of the Directive, the notified body shall issue an EC-type-examination certificate to the applicant. The certificate shall contain the name and address of the manufacturer, conclusions of the examination and the necessary data for identification of the approved type. A list of the relevant parts of the technical documentation shall be annexed to the certificate and a copy kept by the notified body. If the manufacturer or his authorized representative established in the Community is denied a type certification, the notified body shall provide detailed reasons for such denial. Provision shall be made for an appeals procedure.
6. The applicant shall inform the notified body which holds the technical documentation concerning the EC-type-examination certificate of all modifications to the approved equipment or protective system which must receive further approval where such changes may effect conformity with the essential requirements or with the prescribed conditions for use of the product. This further approval is given in the form of an addition to the original EC-type-examination certificate.
7. Each notified body shall communicate to the other notified bodies the relevant information concerning the EC-type-examination certificates and additions issued and withdrawn.
8. The other notified bodies may receive copies of the EC-type-examination certificates and/or their additions. The annexes to the certificates shall be kept at the disposal of the other notified bodies.
9. The manufacturer or his authorized representative established in the Community shall keep with the technical documentation copies of EC-type-examination certificates and their additions for a period ending at least 10 years after the last equipment or protective system was manufactured. Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market.

ANNEX IV

Module: Production Quality Assurance

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned are in conformity with the type as described in the EC-type-examination certificate and satisfy the requirements of the Directive which apply to them. The manufacturer, or his authorized representative established in the Community, shall affix the CE marking to each piece of equipment and draw up a written declaration of conformity. The CE marking shall be accompanied by the identification number of the notified body responsible for EC monitoring, as specified in Section 4.
2. The manufacturer shall operate an approved quality system for production, final equipment inspection and testing as specified in Section 3 and shall be subject to monitoring as specified in Section 4.
3. Quality System

Directive 94/9/EC

3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body of his choice, for the equipment concerned. The application shall include:

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

3.2. The quality system shall ensure compliance of the equipment with the type as described in the EC-type-examination certificate and with the requirements of the Directive which apply to them. All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documentation must permit a consistent interpretation of quality programs, plans, manuals and records.

It shall contain, in particular, an adequate description of:

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

3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in Section 3.2. It shall presume conformity with these requirements in respect of quality systems which implement the relevant harmonized standard. The auditing team shall have at least one member with experience of evaluation in the equipment technology concerned. The evaluation procedure shall include an inspection visit to the manufacturer's premises. The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

3.4. The manufacturer shall undertake to fulfill the obligations arising out of the quality system as approved and to uphold the system so that it remains adequate and efficient. The manufacturer or his authorized representative shall inform the notified body which has approved the quality system of any intended updating of the quality system. The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in Section 3.2 or whether a re-assessment is required. It shall notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. Surveillance Under the Responsibility of the Notified Body

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

4.2. The manufacturer shall, for inspection purposes, allow the notified body access to the manufacture, inspection, testing and storage premises and shall provide it with all necessary information, in particular

- the quality system documentation

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— the quality records, such as inspection reports and text data, calibration data, reports on the qualifications of the personnel concerned, etc.

4.3. The notified body shall periodically carry out audits to ensure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.

4.4. Furthermore, the notified body may pay unexpected visits to the manufacturer. During such visits, the notified body may carry out tests, or arrange for tests to be carried out, to check that the quality system is functioning correctly, if necessary. The notified body shall provide the manufacturer with a visit report and, if a test has taken place, with a test report.

5. The manufacturer shall, for a period ending at least 10 years after the last piece of equipment was manufactured, keep at the disposal of the national authorities:

- the documentation referred to in the second indent of Section 3.1;
- the updating referred to iii the second paragraph of Section 3.4;
- the decisions and reports from the notified hotly which are referred to in Section 3.4, last paragraph, Section 4.3 and Section 4.4.

6. Each notified body shall apprise the other notified bodies of the relevant information concerning the quality system approvals issued and withdrawn.

ANNEX V

Module: Product Verification

1. This module describes the procedure whereby a manufacturer or his authorized representative established within the Community checks and attests that the equipment subject to the provisions of point 3 are in conformity with the type as described in the EC-type-examination certificate and satisfy the relevant requirements of the Directive.

2. The manufacturer shall take all measures necessary to ensure that the manufacturing process guarantees conformity of the equipment with the type as described in the EC-type-examination certificate and with the requirements of the Directive which apply to them. The manufacturer or his authorized representative established in the Community shall affix the CE marking to each piece of equipment and shall draw up a declaration of conformity.

3. The notified body shall carry our the appropriate examinations and tests in order to check the conformity of the equipment, protective system or device referred to in Article 1 (2), with the relevant requirements of the Directive, by examining and testing every product as specified in Section 4. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity for a period ending at least 10 years after the last piece of equipment was manufactured.

4. Verification by Examination and Testing of Each Piece of Equipment

4.1. All equipment shall be individually examined and appropriate tests as set out in the relevant standard(s) referred in Article 5 or equipment tests shall be carried out in order to verify their conformity with the type as described in the EC-type-examination certificate and the relevant requirements of the Directive.

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4.2. The notified body shall affix or have affixed its identification number to each approved item of equipment and shall draw up a written certificate of conformity relating to the tests carried out.

4.3. The manufacturer or his authorized representative shall ensure that he is able to supply the notified body's certificates of conformity on request.

ANNEX VI

Module: Conformity to Type

1. This module describes that part of the procedure whereby the manufacturer or his authorized representative established within the Community ensures and declares that the equipment in question is in conformity with the type as described in the EC-type-examination certificate and satisfy the requirements of the Directive applicable to them. The manufacturer or his authorized representative established within the Community shall affix the CE marking to each piece of equipment and draw up a written declaration of conformity.

2. The manufacturer shall take all measures necessary to ensure that the manufacturing process assures compliance of the manufactured equipment or protective systems with the type as described in the EC-type-examination certificate and with the relevant requirements of the Directive.

3. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity for a period ending at least 10 years after the last piece of equipment was manufactured. Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the equipment or protective system on the Community market.

For each piece of equipment manufactured, tests relating to the anti-explosive protection aspects of the product shall be carried out by the manufacturer or on his behalf. The tests shall be carried out under the responsibility of a notified body, chosen by the manufacturer. On the responsibility of the notified body, the manufacturer shall affix the former's identification number during the manufacturing process.

ANNEX VII

Module: Product Quality Assurance

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of Section 2 ensures and declares that the equipment is in conformity with the type as described in the EC-type-examination certificate. The manufacturer or his authorized representative established within the Community shall affix the CE marking to each product and draw up a written declaration of conformity. The CE marking shall be accompanied by the identification number of the notified body responsible for surveillance as specified in Section 4.

2. The manufacturer shall operate an approved quality system for the final inspection and testing of equipment as specified in Section 3 below and shall be subject to surveillance as specified in Section 4 below.

3. Quality System

Directive 94/9/EC

3.1. The manufacturer shall lodge an application for assessment of his quality system for the equipment and protective systems, with a notified body of his choice.

The application shall include all relevant information for the product category envisaged;

- documentation on the quality system;
- technical documentation on the approved type and a copy of the EC-type-examination certificate.

3.2. Under the quality system, each piece of equipment shall be examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5 or equivalent tests shall be carried out in order to ensure its conformity with the relevant requirements of the Directive. All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instruments. This quality system documentation must permit a consistent interpretation of the quality programs, plans, manuals and records. It shall contain, in particular, an adequate description of:

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

3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in Section 3.2. It shall presume conformity with these requirements in respect of quality systems which implement the relevant harmonized standard. The auditing team shall have at least one member experienced as an assessor in the product technology concerned. The assessment procedure shall include an assessment visit to the manufacturer's premises. The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

3.4. The manufacturer shall undertake to discharge the obligations arising from the quality system as approved and to maintain it in an appropriate and efficient manner. The manufacturer or his authorized representative shall inform the notified body which has approved the quality system of any intended updating of the quality system. The notified body shall evaluate the modifications proposed and decide whether the modified quality system will still satisfy the requirements referred to in Section 3.2 or whether a re-assessment is required. It shall notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. Surveillance Under the Responsibility of the Notified Body

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

4.2. The manufacturer shall for inspection purposes allow the notified body access to the inspection, testing and storage premises and shall provide it with all necessary information, in particular:

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

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4.3. The notified body shall periodically carry out audits to ensure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.

4.4. Furthermore, the notified body may pay unexpected visits to the manufacturer. At the time of such visits, the notified body may carry our tests or arrange for tests to be carried out in order to check the proper functioning of the quality system, where necessary; it shall provide the manufacturer with a visit report and, if a test has been carried out, with a test report.

5. The manufacturer shall, for a period ending at least 10 years after the last piece of equipment was manufactured, keep at the disposal of the national authorities:

- the documentation referred to in the third indent of Section 3.1;
- the updating referred to in the second paragraph of Section 3.4;
- the decisions and reports from the notified body which are referred to in Section 3.4, last paragraph, Section 4.3 and Section 4.4.

6. Each notified body shall forward to the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.

ANNEX VIII

Module: Internal Control of Production

1. This module describes the procedure whereby the manufacturer or his authorized representative established within the Community, who carries our the obligations laid down in Section 2, ensures and declares that the equipment satisfy the requirements of the Directive applicable to it. The manufacturer or his authorized representative established within the Community shall affix the CE marking to each piece of equipment and draw up a written declaration of conformity.

2. The manufacturer shall establish the technical documentation described in Section 3 and he or his authorized representative established within the Community shall keep it at the disposal of the relevant national authorities for inspection purposes for a period ending at least 10 years after the last piece of equipment was manufactured. Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the equipment on the Community market.

3. Technical documentation shall enable the conformity of the equipment with the relevant requirements of the Directive to be assessed. It shall, to the extent necessary for such assessment, cover the design, manufacture and operation of the product. It shall contain:

- a general description of the equipment;
- conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits etc.;
- descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the equipment;
- a list of the standards applied in full or in part, and descriptions of the solutions adopted to meet the safety aspects of the Directive where the standards have not been applied, results of design calculations made, examinations carried out, etc.;
- test reports.

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4. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity with the technical documentation.

5. The manufacturer shall take all measures necessary to ensure that the manufacturing process guarantees compliance of the manufactured equipment with the technical documentation referred to in Section 2 and with the requirements of the Directive applicable to such equipment.

ANNEX IX

Module: Unit Verification

1. This module describes the procedure whereby the manufacturer ensures and declares that the equipment or protective system which has been issued with the certificate referred to in Section 2 conforms to the requirements of the Directive which are applicable to it. The manufacturer or his authorized representative in the Community shall affix the CE marking to the equipment or protective system and draw up a declaration of conformity.

2. The notified body shall examine the individual equipment or protective system and carry out the appropriate tests as set out in the relevant standard(s) referred to in Article 5, or equivalent tests, to ensure its conformity with the relevant requirements of the Directive. The notified body shall affix, or cause to be affixed, its identification number on the approved equipment or protective system and shall draw up a certificate of conformity concerning the tests carried out.

3. The aim of the technical documentation is to enable conformity with the requirements of the Directive to be assessed and the design, manufacture and operation of the equipment or protective system to be understood. The documentation shall contain:

- a general description of the product;
- conceptual design and manufacturing drawings and layouts of components, sub-assemblies, circuits, etc.;
- descriptions and explanations necessary for the understanding of said drawings and layouts and the operation of the equipment or protective system;
- a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements of the Directive where the standards referred to in Article 5 have not been applied;
- results of design calculations made, examinations carried out, etc.;
- test reports.

ANNEX X

A. CE Marking

The CE conformity marking shall consist of the initials 'CE' taking the following form:



If the marking is reduced or enlarged, the proportions given in the above graduated drawing must be respected. The various components of the CE marking must have substantially the same vertical dimension, which may not be less than 5mm. This minimum dimension may be waived for small-scale equipment, protective systems or devices referred to in Article 1 (2).

B. Content of the EC Declaration of Conformity

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The EC declaration of conformity must contain the following elements:

- the name or identification mark and the address of the manufacturer or his authorized representative established within the Community;
- a description of the equipment, protective system, or device referred to in Article 1 (2);
- all relevant provisions fulfilled by the equipment, protective system, or device referred to in Article 1 (2);
- where appropriate, the name, identification number and address of the notified body and the number of the EC-type-examination certificate;
- where appropriate, reference to the harmonized standards;
- where appropriate, the standards and technical specifications which have been used;
- where appropriate, references to other Community Directives which have been applied;
- identification of the signatory who has been empowered to enter into commitments on behalf of the manufacturer or his authorized representative established within the Community.

ANNEX XI

Minimum Criteria to be Taken Into Account by Member States for the Notification of Bodies

1. The body, its director and the staff responsible for carrying out the verification tests shall not be the designer, manufacturer, supplier or installer of equipment, protective systems, or devices referred to in Article 1 (2) which they inspect, nor the authorized representative of any of these parties. They shall become involved neither directly nor as authorized representatives in the design, construction, marketing or maintenance of the equipment, protective systems or devices referred to in Article 1 (2) in question. This does not preclude the possibility of exchanges of technical information between the manufacturer and the body.
2. The body and its inspection staff shall carry out the verification tests with the highest degree of professional integrity and technical competence and shall be free from all pressures and inducements, particularly financial, which may influence their judgment or the results of the inspection, especially from persons or groups of persons with an interest in the result of verifications.
3. The body shall have at its disposal the necessary staff and possess the necessary facilities to enable it to perform properly the administrative and technical tasks connected with verification; it shall also have access to the equipment required for special verification.
4. The staff responsible for inspection shall have:
 - sound technical and professional training;
 - satisfactory knowledge of the requirements of the tests which they carry out and adequate experience of such tests;
 - the ability to draw up the certificates, records and reports required to authenticate the performance of the tests.
5. The impartiality of inspection staff shall be guaranteed. Their remuneration shall not depend on the number of tests carried out or on the results of such tests.

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6. The body shall take our liability insurance unless its liability is assumed by the State in accordance with national law or the Member State itself is directly responsible for the tests.
7. The staff of the body shall be bound to observe professional secrecy with regard to all information gained in carrying out its tasks (except vis-a-vis the competent administrative authorities of the State in which its activities are carried out) under this Directive or any provision of national law giving effect to it.



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