

FOURTH COUNCIL DIRECTIVE

of 25 July 1978

based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies

(78/660/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 54 (3) (g) thereof,

Having regard to the proposal from the Commission,

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

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

Whereas the coordination of national provisions concerning the presentation and content of annual accounts and annual reports, the valuation methods used therein and their publication in respect of certain companies with limited liability is of special importance for the protection of members and third parties;

Whereas simultaneous coordination is necessary in these fields for these forms of company because, on the one hand, these companies' activities frequently extend beyond the frontiers of their national territories and, on the other, they offer no safeguards to third parties beyond the amounts of their net assets; whereas, moreover, the necessity for and the urgency of such coordination have been recognized and confirmed by Article 2 (1) (f) of Directive 68/151/EEC ⁽³⁾;

Whereas it is necessary, moreover, to establish in the Community minimum equivalent legal requirements as regards the extent of the financial information that should be made available to the public by companies that are in competition with one another;

Whereas annual accounts must give a true and fair view of a company's assets and liabilities, financial position and profit or loss; whereas to this end a

mandatory layout must be prescribed for the balance sheet and the profit and loss account and whereas the minimum content of the notes on the accounts and the annual report must be laid down; whereas, however, derogations may be granted for certain companies of minor economic or social importance;

Whereas the different methods for the valuation of assets and liabilities must be coordinated to the extent necessary to ensure that annual accounts disclose comparable and equivalent information;

Whereas the annual accounts of all companies to which this Directive applies must be published in accordance with Directive 68/151/EEC; whereas, however, certain derogations may likewise be granted in this area for small and medium-sized companies;

Whereas annual accounts must be audited by authorized persons whose minimum qualifications will be the subject of subsequent coordination; whereas only small companies may be relieved of this audit obligation;

Whereas, when a company belongs to a group, it is desirable that group accounts giving a true and fair view of the activities of the group as a whole be published; whereas, however, pending the entry into force of a Council Directive on consolidated accounts, derogations from certain provisions of this Directive are necessary;

Whereas, in order to meet the difficulties arising from the present position regarding legislation in certain Member States, the period allowed for the implementation of certain provisions of this Directive must be longer than the period generally laid down in such cases,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. The coordination measures prescribed by this Directive shall apply to the laws, regulations and

⁽¹⁾ OJ No C 129, 11. 12. 1972, p. 38.

⁽²⁾ OJ No C 39, 7. 6. 1973, p. 31.

⁽³⁾ OJ No L 65, 14. 3. 1968, p. 8.

administrative provisions of the Member States relating to the following types of companies:

— in Germany:

die Aktiengesellschaft, die Kommanditgesellschaft auf Aktien, die Gesellschaft mit beschränkter Haftung;

— in Belgium:

la société anonyme/de naamloze vennootschap, la société en commandite par actions / de commanditaire vennootschap op aandelen, la société de personnes à responsabilité limitée/de personenvennootschap met beperkte aansprakelijkheid;

— in Denmark:

aktieselskaber, kommanditaktieselskaber, anpartselskaber;

— in France:

la société anonyme, la société en commandite par actions, la société à responsabilité limitée;

— in Ireland:

public companies limited by shares or by guarantee, private companies limited by shares or by guarantee;

— in Italy:

la società per azioni, la società in accomandita per azioni, la società a responsabilità limitata;

— in Luxembourg:

la société anonyme, la société en commandite par actions, la société à responsabilité limitée;

— in the Netherlands:

de naamloze vennootschap, de besloten vennootschap met beperkte aansprakelijkheid;

— in the United Kingdom:

public companies limited by shares or by guarantee, private companies limited by shares or by guarantee.

2. Pending subsequent coordination, the Member States need not apply the provisions of this Directive to banks and other financial institutions or to insurance companies.

SECTION 1

General provisions

Article 2

1. The annual accounts shall comprise the balance sheet, the profit and loss account and the notes on the accounts. These documents shall constitute a composite whole.

2. They shall be drawn up clearly and in accordance with the provisions of this Directive.

3. The annual accounts shall give a true and fair view of the company's assets, liabilities, financial position and profit or loss.

4. Where the application of the provisions of this Directive would not be sufficient to give a true and fair view within the meaning of paragraph 3, additional information must be given.

5. Where in exceptional cases the application of a provision of this Directive is incompatible with the obligation laid down in paragraph 3, that provision must be departed from in order to give a true and fair view within the meaning of paragraph 3. Any such departure must be disclosed in the notes on the accounts together with an explanation of the reasons for it and a statement of its effect on the assets, liabilities, financial position and profit or loss. The Member States may define the exceptional cases in question and lay down the relevant special rules.

6. The Member States may authorize or require the disclosure in the annual accounts of other information as well as that which must be disclosed in accordance with this Directive.

SECTION 2

General provisions concerning the balance sheet and the profit and loss account

Article 3

The layout of the balance sheet and of the profit and loss account, particularly as regards the form adopted for their presentation, may not be changed from one financial year to the next. Departures from this principle shall be permitted in exceptional cases. Any such departure must be disclosed in the notes on the accounts together with an explanation of the reasons therefor.

Article 4

1. In the balance sheet and in the profit and loss account the items prescribed in Articles 9, 10 and 23 to 26 must be shown separately in the order indicated. A more detailed subdivision of the items shall be authorized provided that the layouts are complied with. New items may be added provided that their contents are not covered by any of the items prescribed by the layouts. Such subdivision or new items may be required by the Member States.

2. The layout, nomenclature and terminology of items in the balance sheet and profit and loss account that are preceded by Arabic numerals must be adapted where the special nature of an undertaking so requires. Such adaptations may be required by the Member States of undertakings forming part of a particular economic sector.

3. The balance sheet and profit and loss account items that are preceded by Arabic numerals may be combined where:

- (a) they are immaterial in amount for the purposes of Article 2 (3); or
- (b) such combination makes for greater clarity, provided that the items so combined are dealt with separately in the notes on the accounts. Such combination may be required by the Member States.

4. In respect of each balance sheet and profit and loss account item the figure relating to the corresponding item for the preceding financial year must be shown. The Member States may provide that, where these figures are not comparable, the figure for the preceding financial year must be adjusted. In any case, non-comparability and any adjustment of the figures must be disclosed in the notes on the accounts, with relevant comments.

5. Save where there is a corresponding item for the preceding financial year within the meaning of paragraph 4, a balance sheet or profit and loss account item for which there is no amount shall not be shown.

Article 5

1. By way of derogation from Article 4 (1) and (2), the Member States may prescribe special layouts for the annual accounts of investment companies and of financial holding companies provided that these layouts give a view of these companies equivalent to that provided for in Article 2 (3).

2. For the purposes of this Directive, 'investment companies' shall mean only:

- (a) those companies the sole object of which is to invest their funds in various securities, real property and other assets with the sole aim of spreading investment risks and giving their shareholders the benefit of the results of the management of their assets;
- (b) those companies associated with investment companies with fixed capital if the sole object of the companies so associated is to acquire fully paid shares issued by those investment companies without prejudice to the provisions of Article 20 (1) (h) of Directive 77/91/EEC ⁽¹⁾.

3. For the purposes of this Directive, 'financial holding companies' shall mean only those companies the sole object of which is to acquire holdings in other undertakings, and to manage such holdings and turn them to profit, without involving themselves directly or indirectly in the management of those undertakings, the foregoing without prejudice to their rights as shareholders. The limitations imposed on the activities of these companies must be such that compliance with them can be supervised by an administrative or judicial authority.

Article 6

The Member States may authorize or require adaptation of the layout of the balance sheet and profit and loss account in order to include the appropriation of profit or the treatment of loss.

Article 7

Any set-off between asset and liability items, or between income and expenditure items, shall be prohibited.

SECTION 3

Layout of the balance sheet*Article 8*

For the presentation of the balance sheet, the Member States shall prescribe one or both of the

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 1.

layouts prescribed by Articles 9 and 10. If a Member State prescribes both, it may allow companies to choose between them.

Article 9

Assets

A. Subscribed capital unpaid

of which there has been called

(unless national law provides that called-up capital be shown under 'Liabilities'. In that case, the part of the capital called but not yet paid must appear as an asset either under A or under D (II) (5)).

B. Formation expenses

as defined by national law, and in so far as national law permits their being shown as an asset. National law may also provide for formation expenses to be shown as the first item under 'Intangible assets'.

C. Fixed assets

I. Intangible assets

1. Costs of research and development, in so far as national law permits their being shown as assets.
2. Concessions, patents, licences, trade marks and similar rights and assets, if they were:
 - (a) acquired for valuable consideration and need not be shown under C (I) (3); or
 - (b) created by the undertaking itself, in so far as national law permits their being shown as assets.
3. Goodwill, to the extent that it was acquired for valuable consideration.
4. Payments on account.

II. Tangible assets

1. Land and buildings.
2. Plant and machinery.
3. Other fixtures and fittings, tools and equipment.
4. Payments on account and tangible assets in course of construction.

III. Financial assets

1. Shares in affiliated undertakings.
2. Loans to affiliated undertakings.
3. Participating interests.
4. Loans to undertakings with which the company is linked by virtue of participating interests.
5. Investments held as fixed assets.
6. Other loans.
7. Own shares (with an indication of their nominal value or, in the absence of a nominal value, their accounting par value) to the extent that national law permits their being shown in the balance sheet.

D. Current assets

I. Stocks

1. Raw materials and consumables.
2. Work in progress.
3. Finished goods and goods for resale.
4. Payments on account.

II. Debtors

(Amounts becoming due and payable after more than one year must be shown separately for each item.)

1. Trade debtors.
2. Amounts owed by affiliated undertakings.
3. Amounts owed by undertakings with which the company is linked by virtue of participating interests.
4. Other debtors.
5. Subscribed capital called but not paid (unless national law provides that called-up capital be shown as an asset under A).
6. Prepayments and accrued income (unless national law provides for such items to be shown as an asset under E).

III. Investments

1. Shares in affiliated undertakings.
2. Own shares (with an indication of their nominal value or, in the absence of a nominal value, their accounting par value) to the extent that national law permits their being shown in the balance sheet.
3. Other investments.

IV. Cash at bank and in hand

E. Prepayments and accrued income

(unless national law provides for such items to be shown as an asset under D (II) (6)).

F. Loss for the financial year

(unless national law provides for it to be shown under A (VI) under 'Liabilities').

Liabilities

A. Capital and reserves

I. Subscribed capital

(unless national law provides for called-up capital to be shown under this item. In that case, the amounts of subscribed capital and paid-up capital must be shown separately).

II. Share premium account

III. Revaluation reserve

IV. Reserves

1. Legal reserve, in so far as national law requires such a reserve.
2. Reserve for own shares, in so far as national law requires such a reserve, without prejudice to Article 22 (1) (b) of Directive 77/91/EEC.
3. Reserves provided for by the articles of association.
4. Other reserves.

V. Profit or loss brought forward

VI. Profit or loss for the financial year

(unless national law requires that this item be shown under F under 'Assets' or under E under 'Liabilities').

B. Provisions for liabilities and charges

1. Provisions for pensions and similar obligations.
2. Provisions for taxation.
3. Other provisions.

C. Creditors

(Amounts becoming due and payable within one year and amounts becoming due and payable after more than one year must be shown separately for each item and for the aggregate of these items.)

1. Debenture loans, showing convertible loans separately.
2. Amounts owed to credit institutions.
3. Payments received on account of orders in so far as they are not shown separately as deductions from stocks.
4. Trade creditors.
5. Bills of exchange payable.
6. Amounts owed to affiliated undertakings.
7. Amounts owed to undertakings with which the company is linked by virtue of participating interests.
8. Other creditors including tax and social security.
9. Accruals and deferred income (unless national law provides for such items to be shown under D under 'Liabilities').

D. Accruals and deferred income

(unless national law provides for such items to be shown under C (9) under 'Liabilities').

E. Profit for the financial year

(unless national law provides for it to be shown under A (VI) under 'Liabilities').

*Article 10***A. Subscribed capital unpaid**

of which there has been called

(unless national law provides that called-up capital be shown under L. In that case, the part of the capital called but not yet paid must appear either under A or under D (II) (5)).

B. Formation expenses

as defined by national law, and in so far as national law permits their being shown as an asset. National law may also provide for formation expenses to be shown as the first item under 'Intangible assets'.

C. Fixed assets*I. Intangible assets*

1. Costs of research and development, in so far as national law permits their being shown as assets.
2. Concessions, patents, licences, trade marks and similar rights and assets, if they were:
 - (a) acquired for valuable consideration and need not be shown under C (I) (3); or
 - (b) created by the undertaking itself, in so far as national law permits their being shown as assets.
3. Goodwill, to the extent that it was acquired for valuable consideration.
4. Payments on account.

II. Tangible assets

1. Land and buildings.
2. Plant and machinery.
3. Other fixtures and fittings, tools and equipment.
4. Payments on account and tangible assets in course of construction.

III. Financial assets

1. Shares in affiliated undertakings.

2. Loans to affiliated undertakings.

3. Participating interests.

4. Loans to undertakings with which the company is linked by virtue of participating interests.

5. Investments held as fixed assets.

6. Other loans.

7. Own shares (with an indication of their nominal value or, in the absence of a nominal value, their accounting par value) to the extent that national law permits their being shown in the balance sheet.

D. Current assets*I. Stocks*

1. Raw materials and consumables.
2. Work in progress.
3. Finished goods and goods for resale.
4. Payments on account.

II. Debtors

(Amounts becoming due and payable after more than one year must be shown separately for each item.)

1. Trade debtors.
2. Amounts owed by affiliated undertakings.
3. Amounts owed by undertakings with which the company is linked by virtue of participating interests.
4. Other debtors.
5. Subscribed capital called but not paid (unless national law provides that called-up capital be shown under A).
6. Prepayments and accrued income (unless national law provides that such items be shown under E).

- III. *Investments*
1. Shares in affiliated undertakings.
 2. Own shares (with an indication of their nominal value or, in the absence of a nominal value, their accounting par value) to the extent that national law permits their being shown in the balance sheet.
 3. Other investments.
- IV. *Cash at bank and in hand.*
- E. **Prepayments and accrued income**
(unless national law provides for such items to be shown under D (II) (6)).
- F. **Creditors: amounts becoming due and payable within one year**
1. Debenture loans, showing convertible loans separately.
 2. Amounts owed to credit institutions.
 3. Payments received on account of orders in so far as they are not shown separately as deductions from stocks.
 4. Trade creditors.
 5. Bills of exchange payable.
 6. Amounts owed to affiliated undertakings.
 7. Amounts owed to undertakings with which the company is linked by virtue of participating interests.
 8. Other creditors including tax and social security.
 9. Accruals and deferred income (unless national law provides for such items to be shown under K).
- G. **Net current assets/liabilities** (taking into account prepayments and accrued income when shown under E and accruals and deferred income when shown under K).
- H. **Total assets less current liabilities**
- I. **Creditors: amounts becoming due and payable after more than one year**
1. Debenture loans, showing convertible loans separately.
 2. Amounts owed to credit institutions.
 3. Payments received on account of orders in so far as they are not shown separately as deductions from stocks.
 4. Trade creditors.
 5. Bills of exchange payable.
 6. Amounts owed to affiliated undertakings.
 7. Amounts owed to undertakings with which the company is linked by virtue of participating interests.
 8. Other creditors including tax and social security.
 9. Accruals and deferred income (unless national law provides for such items to be shown under K).
- J. **Provisions for liabilities and charges**
1. Provisions for pensions and similar obligations.
 2. Provisions for taxation.
 3. Other provisions.
- K. **Accruals and deferred income**
(unless national law provides for such items to be shown under F (9) or I (9) or both).
- L. **Capital and reserves**
- I. *Subscribed capital*
(unless national law provides for called-up capital to be shown under this item. In that case, the amounts of subscribed capital and paid-up capital must be shown separately).
 - II. *Share premium account*
 - III. *Revaluation reserve*
 - IV. *Reserves*
 1. Legal reserve, in so far as national law requires such a reserve.

2. Reserve for own shares, in so far as national law requires such a reserve, without prejudice to Article 22 (1) (b) of Directive 77/91/EEC.
3. Reserves provided for by the articles of association.
4. Other reserves.

V. *Profit or loss brought forward*

VI. *Profit or loss for the financial year*

Article 11

The Member States may permit companies which on their balance sheet dates do not exceed the limits of two of the three following criteria:

- balance sheet total: 1 000 000 EUA,
- net turnover: 2 000 000 EUA,
- average number of employees during the financial year: 50

to draw up abridged balance sheets showing only those items preceded by letters and roman numerals in Articles 9 and 10, disclosing separately the information required in brackets in D (II) under 'Assets' and C under 'Liabilities' in Article 9 and in D (II) in Article 10, but in total for each.

Article 12

1. Where on its balance sheet date, a company exceeds or ceases to exceed the limits of two of the three criteria indicated in Article 11, that fact shall affect the application of the derogation provided for in that Article only if it occurs in two consecutive financial years.
2. For the purposes of translation into national currencies, the amounts in European units of account specified in Article 11 may be increased by not more than 10 %.
3. The balance sheet total referred to in Article 11 shall consist of the assets in A to E under 'Assets' in the layout prescribed in Article 9 or those in A to E in the layout prescribed in Article 10.

Article 13

1. Where an asset or liability relates to more than one layout item, its relationship to other items must be disclosed either under the item where it appears or in the notes on the accounts, if such disclosure is essential to the comprehension of the annual accounts.
2. Own shares and shares in affiliated undertakings may be shown only under the items prescribed for that purpose.

Article 14

All commitments by way of guarantee of any kind must, if there is no obligation to show them as liabilities, be clearly set out at the foot of the balance sheet or in the notes on the accounts, and a distinction made between the various types of guarantee which national law recognizes; specific disclosure must be made of any valuable security which has been provided. Commitments of this kind existing in respect of affiliated undertakings must be shown separately.

SECTION 4

Special provisions relating to certain balance sheet items

Article 15

1. Whether particular assets are to be shown as fixed assets or current assets shall depend upon the purpose for which they are intended.
2. Fixed assets shall comprise those assets which are intended for use on a continuing basis for the purposes of the undertaking's activities.
3. (a) Movements in the various fixed asset items shall be shown in the balance sheet or in the notes on the accounts. To this end there shall be shown separately, starting with the purchase price or production cost, for each fixed asset item, on the one hand, the additions, disposals and transfers during the financial year and, on the other, the cumulative value adjustments at the balance sheet date and the rectifications made during the financial year to the value adjustments of previous financial years. Value adjustments shall be shown either in the balance sheet, as clear deductions from the relevant items, or in the notes on the accounts.
 - (b) If, when annual accounts are drawn up in accordance with this Directive for the first

time, the purchase price or production cost of a fixed asset cannot be determined without undue expense or delay, the residual value at the beginning of the financial year may be treated as the purchase price or production cost. Any application of this provision must be disclosed in the notes on the accounts.

- (c) Where Article 33 is applied, the movements in the various fixed asset items referred to in subparagraph (a) of this paragraph shall be shown starting with the purchase price or production cost resulting from revaluation.

4. Paragraph 3 (a) and (b) shall apply to the presentation of 'Formation expenses'.

Article 16

Rights to immovables and other similar rights as defined by national law must be shown under 'Land and buildings'.

Article 17

For the purposes of this Directive, 'participating interest' shall mean rights in the capital of other undertakings, whether or not represented by certificates, which, by creating a durable link with those undertakings, are intended to contribute to the company's activities. The holding of part of the capital of another company shall be presumed to constitute a participating interest where it exceeds a percentage fixed by the Member States which may not exceed 20 %.

Article 18

Expenditure incurred during the financial year but relating to a subsequent financial year, together with any income which, though relating to the financial year in question, is not due until after its expiry must be shown under 'Prepayments and accrued income'. The Member States may, however, provide that such income shall be included in 'Debtors'. Where such income is material, it must be disclosed in the notes on the accounts.

Article 19

Value adjustments shall comprise all adjustments intended to take account of reductions in the values of individual assets established at the balance sheet date whether that reduction is final or not.

Article 20

1. Provisions for liabilities and charges are intended to cover losses or debts the nature of which is clearly defined and which at the date of the balance sheet are either likely to be incurred, or certain to be incurred but uncertain as to amount or as to the date on which they will arise.

2. The Member States may also authorize the creation of provisions intended to cover charges which have their origin in the financial year under review or in a previous financial year, the nature of which is clearly defined and which at the date of the balance sheet are either likely to be incurred, or certain to be incurred but uncertain as to amount or as to the date on which they will arise.

3. Provisions for liabilities and charges may not be used to adjust the values of assets.

Article 21

Income receivable before the balance sheet date but relating to a subsequent financial year, together with any charges which, though relating to the financial year in question, will be paid only in the course of a subsequent financial year, must be shown under 'Accruals and deferred income'. The Member States may, however, provide that such charges shall be included in 'Creditors'. Where such charges are material, they must be disclosed in the notes on the accounts.

SECTION 5

Layout of the profit and loss account

Article 22

For the presentation of the profit and loss account, the Member States shall prescribe one or more of the layouts provided for in Articles 23 to 26. If a Member State prescribes more than one layout, it may allow companies to choose from among them.

Article 23

1. Net turnover.
2. Variation in stocks of finished goods and in work in progress.
3. Work performed by the undertaking for its own purposes and capitalized.

4. Other operating income.
5. (a) Raw materials and consumables.
(b) Other external charges.
6. Staff costs:
 - (a) wages and salaries;
 - (b) social security costs, with a separate indication of those relating to pensions.
7. (a) Value adjustments in respect of formation expenses and of tangible and intangible fixed assets.
(b) Value adjustments in respect of current assets, to the extent that they exceed the amount of value adjustments which are normal in the undertaking concerned.
8. Other operating charges.
9. Income from participating interests, with a separate indication of that derived from affiliated undertakings.
10. Income from other investments and loans forming part of the fixed assets, with a separate indication of that derived from affiliated undertakings.
11. Other interest receivable and similar income, with a separate indication of that derived from affiliated undertakings.
12. Value adjustments in respect of financial assets and of investments held as current assets.
13. Interest payable and similar charges, with a separate indication of those concerning affiliated undertakings.
14. Tax on profit or loss on ordinary activities.
15. Profit or loss on ordinary activities after taxation.
16. Extraordinary income.
17. Extraordinary charges.
18. Extraordinary profit or loss.
19. Tax on extraordinary profit or loss.
20. Other taxes not shown under the above items.
21. Profit or loss for the financial year.

Article 24

A. Charges

1. Reduction in stocks of finished goods and in work in progress:
2. (a) raw materials and consumables;
(b) other external charges.

3. Staff costs:

- (a) wages and salaries;
- (b) social security costs, with a separate indication of those relating to pensions.

4. (a) Value adjustments in respect of formation expenses and of tangible and intangible fixed assets.

- (b) Value adjustments in respect of current assets, to the extent that they exceed the amount of value adjustments which are normal in the undertaking concerned.

5. Other operating charges.

6. Value adjustments in respect of financial assets and of investments held as current assets.

7. Interest payable and similar charges, with a separate indication of those concerning affiliated undertakings.

8. Tax on profit or loss on ordinary activities.

9. Profit or loss on ordinary activities after taxation.

10. Extraordinary charges.

11. Tax on extraordinary profit or loss.

12. Other taxes not shown under the above items.

13. Profit or loss for the financial year.

B. Income

1. Net turnover.

2. Increase in stocks of finished goods and in work in progress.

3. Work performed by the undertaking for its own purposes and capitalized.

4. Other operating income.

5. Income from participating interests, with a separate indication of that derived from affiliated undertakings.

6. Income from other investments and loans forming part of the fixed assets, with a separate indication of that derived from affiliated undertakings.

7. Other interest receivable and similar income, with a separate indication of that derived from affiliated undertakings.

8. Profit or loss on ordinary activities after taxation.

9. Extraordinary income.

10. Profit or loss for the financial year.

Article 25

1. Net turnover.
2. Cost of sales (including value adjustments).
3. Gross profit or loss.
4. Distribution costs (including value adjustments).
5. Administrative expenses (including value adjustments).
6. Other operating income.
7. Income from participating interests, with a separate indication of that derived from affiliated undertakings.
8. Income from other investments and loans forming part of the fixed assets, with a separate indication of that derived from affiliated undertakings.
9. Other interest receivable and similar income, with a separate indication of that derived from affiliated undertakings.
10. Value adjustments in respect of financial assets and of investments held as current assets.
11. Interest payable and similar charges, with a separate indication of those concerning affiliated undertakings.
12. Tax on profit or loss on ordinary activities.
13. Profit or loss on ordinary activities after taxation.
14. Extraordinary income.
15. Extraordinary charges.
16. Extraordinary profit or loss.
17. Tax on extraordinary profit or loss.
18. Other taxes not shown under the above items.
19. Profit or loss for the financial year.

*Article 26***A. Charges**

1. Cost of sales (including value adjustments).
2. Distribution costs (including value adjustments).
3. Administrative expenses (including value adjustments).

4. Value adjustments in respect of financial assets and of investments held as current assets.
5. Interest payable and similar charges, with a separate indication of those concerning affiliated undertakings.
6. Tax on profit or loss on ordinary activities.
7. Profit or loss on ordinary activities after taxation.
8. Extraordinary charges.
9. Tax on extraordinary profit or loss.
10. Other taxes not shown under the above items.
11. Profit or loss for the financial year.

B. Income

1. Net turnover.
2. Other operating income.
3. Income from participating interests, with a separate indication of that derived from affiliated undertakings.
4. Income from other investments and loans forming part of the fixed assets, with a separate indication of that derived from affiliated undertakings.
5. Other interest receivable and similar income, with a separate indication of that derived from affiliated undertakings.
6. Profit or loss on ordinary activities after taxation.
7. Extraordinary income.
8. Profit or loss for the financial year.

Article 27

The Member States may permit companies which on their balance sheet dates do not exceed the limits of two of the three following criteria:

- balance sheet total: 4 million EUA,
- net turnover: 8 million EUA,
- average number of employees during the financial year: 250

to adopt layouts different from those prescribed in Articles 23 to 26 within the following limits:

- (a) in Article 23: 1 to 5 inclusive may be combined under one item called 'Gross profit or loss';
- (b) in Article 24: A (1), A (2) and B (1) to B (4) inclusive may be combined under one item called 'Gross profit or loss';

(c) in Article 25: (1), (2), (3) and (6) may be combined under one item called 'Gross profit or loss';

(d) in Article 26, A (1), B (1) and B (2) may be combined under one item called 'Gross profit or loss'.

Article 12 shall apply.

SECTION 6

Special provisions relating to certain items in the profit and loss account

Article 28

The net turnover shall comprise the amounts derived from the sale of products and the provision of services falling within the company's ordinary activities, after deduction of sales rebates and of value added tax and other taxes directly linked to the turnover.

Article 29

1. Income and charges that arise otherwise than in the course of the company's ordinary activities must be shown under 'Extraordinary income and extraordinary charges'.

2. Unless the income and charges referred to in paragraph 1 are immaterial for the assessment of the results, explanations of their amount and nature must be given in the notes on the accounts. The same shall apply to income and charges relating to another financial year.

Article 30

The Member States may permit taxes on the profit or loss on ordinary activities and taxes on the extraordinary profit or loss to be shown in total as one item in the profit and loss account before 'Other taxes not shown under the above items'. In that case, 'Profit or loss on ordinary activities after taxation' shall be omitted from the layouts prescribed in Articles 23 to 26.

Where this derogation is applied, companies must disclose in the notes on the accounts the extent to which the taxes on the profit or loss affect the profit or loss on ordinary activities and the 'Extraordinary profit or loss'.

SECTION 7

Valuation rules

Article 31

1. The Member States shall ensure that the items shown in the annual accounts are valued in accordance with the following general principles:

- (a) the company must be presumed to be carrying on its business as a going concern;
- (b) the methods of valuation must be applied consistently from one financial year to another;
- (c) valuation must be made on a prudent basis, and in particular:
 - (aa) only profits made at the balance sheet date may be included,
 - (bb) account must be taken of all foreseeable liabilities and potential losses arising in the course of the financial year concerned or of a previous one, even if such liabilities or losses become apparent only between the date of the balance sheet and the date on which it is drawn up,
 - (cc) account must be taken of all depreciation, whether the result of the financial year is a loss or a profit;
- (d) account must be taken of income and charges relating to the financial year, irrespective of the date of receipt or payment of such income or charges;
- (e) the components of asset and liability items must be valued separately;
- (f) the opening balance sheet for each financial year must correspond to the closing balance sheet for the preceding financial year.

2. Departures from these general principles shall be permitted in exceptional cases. Any such departures must be disclosed in the notes on the accounts and the reasons for them given together with an assessment of their effect on the assets, liabilities, financial position and profit or loss.

Article 32

The items shown in the annual accounts shall be valued in accordance with Articles 34 to 42, which are based on the principle of purchase price or production cost.

Article 33

1. The Member States may declare to the Commission that they reserve the power, by way of

derogation from Article 32 and pending subsequent coordination, to permit or require in respect of all companies or any classes of companies:

- (a) valuation by the replacement value method for tangible fixed assets with limited useful economic lives and for stocks;
- (b) valuation by methods other than that provided for in (a) which are designed to take account of inflation for the items shown in annual accounts, including capital and reserves;
- (c) revaluation of tangible fixed assets and financial fixed assets.

Where national law provides for valuation methods as indicated in (a), (b) and (c), it must define their content and limits and the rules for their application.

The application of any such method, the balance sheet and profit and loss account items concerned and the method by which the values shown are calculated shall be disclosed in the notes on the accounts.

2. (a) Where paragraph 1 is applied, the amount of the difference between valuation by the method used and valuation in accordance with the general rule laid down in Article 32 must be entered in the revaluation reserve under 'Liabilities'. The treatment of this item for taxation purposes must be explained either in the balance sheet or in the notes on the accounts.

For purposes of the application of the last subparagraph of paragraph 1, companies shall, whenever the amount of the reserve has been changed in the course of the financial year, publish in the notes on the accounts *inter alia* a table showing:

- the amount of the revaluation reserve at the beginning of the financial year,
- the revaluation differences transferred to the revaluation reserve during the financial year,
- the amounts capitalized or otherwise transferred from the revaluation reserve during the financial year, the nature of any such transfer being disclosed,
- the amount of the revaluation reserve at the end of the financial year.

- (b) The revaluation reserve may be capitalized in whole or in part at any time.
- (c) The revaluation reserve must be reduced to the extent that the amounts transferred thereto are no longer necessary for the

implementation of the valuation method used and the achievement of its purpose.

The Member States may lay down rules governing the application of the revaluation reserve, provided that transfers to the profit and loss account from the revaluation reserve may be made only to the extent that the amounts transferred have been entered as charges in the profit and loss account or reflect increases in value which have been actually realized. These amounts must be disclosed separately in the profit and loss account. No part of the revaluation reserve may be distributed, either directly or indirectly, unless it represents gains actually realized.

- (d) Save as provided under (b) and (c) the revaluation reserve may not be reduced.

3. Value adjustments shall be calculated each year on the basis of the value adopted for the financial year in question, save that by way of derogation from Articles 4 and 22, the Member States may permit or require that only the amount of the value adjustments arising as a result of the application of the general rule laid down in Article 32 be shown under the relevant items in the layouts prescribed in Articles 23 to 26 and that the difference arising as a result of the valuation method adopted under this Article be shown separately in the layouts. Furthermore, Articles 34 to 42 shall apply *mutatis mutandis*.

4. Where paragraph 1 is applied, the following must be disclosed, either in the balance sheet or in the notes on the accounts, separately for each balance sheet item as provided for in the layouts prescribed in Articles 9 and 10, except for stocks, either:

- (a) the amount at the balance sheet date of the valuation made in accordance with the general rule laid down in Article 32 and the amount of the cumulative value adjustments; or
- (b) the amount at the balance sheet date of the difference between the valuation made in accordance with this Article and that resulting from the application of Article 32 and, where appropriate, the cumulative amount of the additional value adjustments.

5. Without prejudice to Article 52 the Council shall, on a proposal from the Commission and within seven years of the notification of this Directive, examine and, where necessary, amend this Article in the light of economic and monetary trends in the Community.

Article 34

1. (a) Where national law authorizes the inclusion of formation expenses under 'Assets', they must be written off within a maximum period of five years.
- (b) In so far as formation expenses have not been completely written off, no distribution of profits shall take place unless the amount of the reserves available for distribution and profits brought forward is at least equal to that of the expenses not written off.
2. The amounts entered under 'Formation expenses' must be explained in the notes on the accounts.

Article 35

1. (a) Fixed assets must be valued at purchase price or production cost, without prejudice to (b) and (c) below.
- (b) The purchase price or production cost of fixed assets with limited useful economic lives must be reduced by value adjustments calculated to write off the value of such assets systematically over their useful economic lives.
- (c) (aa) Value adjustments may be made in respect of financial fixed assets, so that they are valued at the lower figure to be attributed to them at the balance sheet date.
- (bb) Value adjustments must be made in respect of fixed assets, whether their useful economic lives are limited or not, so that they are valued at the lower figure to be attributed to them at the balance sheet date if it is expected that the reduction in their value will be permanent.
- (cc) The value adjustments referred to in (aa) and (bb) must be charged to the profit and loss account and disclosed separately in the notes on the accounts if they have not been shown separately in the profit and loss account.
- (dd) Valuation at the lower of the values provided for in (aa) and (bb) may not be continued if the reasons for which the value adjustments were made have ceased to apply.
- (d) If fixed assets are the subject of exceptional value adjustments for taxation purposes alone,

the amount of the adjustments and the reasons for making them shall be indicated in the notes on the accounts.

2. The purchase price shall be calculated by adding to the price paid the expenses incidental thereto.
3. (a) The production cost shall be calculated by adding to the purchasing price of the raw materials and consumables the costs directly attributable to the product in question.
- (b) A reasonable proportion of the costs which are only indirectly attributable to the product in question may be added into the production costs to the extent that they relate to the period of production.
4. Interest on capital borrowed to finance the production of fixed assets may be included in the production costs to the extent that it relates to the period of production. In that event, the inclusion of such interest under 'Assets' must be disclosed in the notes on the accounts.

Article 36

By way of derogation from Article 35 (1) (c) (cc), the Member States may allow investment companies within the meaning of Article 5 (2) to set off value adjustments to investments directly against 'Capital and reserves'. The amounts in question must be shown separately under 'Liabilities' in the balance sheet.

Article 37

1. Article 34 shall apply to costs of research and development. In exceptional cases, however, the Member States may permit derogations from Article 34 (1) (a). In that case, they may also provide for derogations from Article 34 (1) (b). Such derogations and the reasons for them must be disclosed in the notes on the accounts.
2. Article 34 (1) (a) shall apply to goodwill. The Member States may, however, permit companies to write goodwill off systematically over a limited period exceeding five years provided that this period does not exceed the useful economic life of the asset and is disclosed in the notes on the accounts together with the supporting reasons therefore.

Article 38

Tangible fixed assets, raw materials and consumables which are constantly being replaced and the overall

value of which is of secondary importance to the undertaking may be shown under 'Assets' at a fixed quantity and value, if the quantity, value and composition thereof do not vary materially.

Article 39

1. (a) Current assets must be valued at purchase price or production cost, without prejudice to (b) and (c) below.
- (b) Value adjustments shall be made in respect of current assets with a view to showing them at the lower market value or, in particular circumstances, another lower value to be attributed to them at the balance sheet date.
- (c) The Member States may permit exceptional value adjustments where, on the basis of a reasonable commercial assessment, these are necessary if the valuation of these items is not to be modified in the near future because of fluctuations in value. The amount of these value adjustments must be disclosed separately in the profit and loss account or in the notes on the accounts.
- (d) Valuation at the lower value provided for in (b) and (c) may not be continued if the reasons for which the value adjustments were made have ceased to apply.
- (e) If current assets are the subject of exceptional value adjustments for taxation purposes alone, the amount of the adjustments and the reasons for making them must be disclosed in the notes on the accounts.

2. The definitions of purchase price and of production cost given in Article 35 (2) and (3) shall apply. The Member States may also apply Article 35 (4). Distribution costs may not be included in production costs.

Article 40

1. The Member States may permit the purchase price or production cost of stocks of goods of the same category and all fungible items including investments to be calculated either on the basis of weighted average prices or by the 'first in, first out' (FIFO) method, the 'last in, first out' (LIFO) method, or some similar method.

2. Where the value shown in the balance sheet, following application of the methods of calculation

specified in paragraph 1, differs materially, at the balance sheet date, from the value on the basis of the last known market value prior to the balance sheet date, the amount of that difference must be disclosed in total by category in the notes on the accounts.

Article 41

1. Where the amount repayable on account of any debt is greater than the amount received, the difference may be shown as an asset. It must be shown separately in the balance sheet or in the notes on the accounts.

2. The amount of this difference must be written off by a reasonable amount each year and completely written off no later than the time of repayment of the debt.

Article 42

Provisions for liabilities and charges may not exceed in amount the sums which are necessary.

The provisions shown in the balance sheet under 'Other provisions' must be disclosed in the notes on the accounts if they are material.

SECTION 8

Contents of the notes on the accounts

Article 43

1. In addition to the information required under other provisions of this Directive, the notes on the accounts must set out information in respect of the following matters at least:

- (1) the valuation methods applied to the various items in the annual accounts, and the methods employed in calculating the value adjustments. For items included in the annual accounts which are or were originally expressed in foreign currency, the bases of conversion used to express them in local currency must be disclosed;
- (2) the name and registered office of each of the undertakings in which the company, either itself or through a person acting in his own name but on the company's behalf, holds at least a percentage of the capital which the Member States cannot fix at more than 20 %, showing the proportion of the capital held, the amount of capital and reserves, and the profit or loss for the latest financial year of the undertaking concerned for which accounts have been adopted. This information may be omitted where for the purposes of Article 2 (3) it is of negligible importance only. The information

- concerning capital and reserves and the profit or loss may also be omitted where the undertaking concerned does not publish its balance sheet and less than 50 % of its capital is held (directly or indirectly) by the company;
- (3) the number and the nominal value or, in the absence of a nominal value, the accounting par value of the shares subscribed during the financial year within the limits of an authorized capital, without prejudice as far as the amount of this capital is concerned to Article 2 (1) (e) of Directive 68/151/EEC or to Article 2 (c) of Directive 77/91/EEC;
- (4) where there is more than one class of shares, the number and the nominal value or, in the absence of a nominal value, the accounting par value for each class;
- (5) the existence of any participation certificates, convertible debentures or similar securities or rights, with an indication of their number and the rights they confer;
- (6) amounts owed by the company becoming due and payable after more than five years as well as the company's entire debts covered by valuable security furnished by the company with an indication of the nature and form of the security. This information must be disclosed separately for each creditors item, as provided for in the layouts prescribed in Articles 9 and 10;
- (7) the total amount of any financial commitments that are not included in the balance sheet, in so far as this information is of assistance in assessing the financial position. Any commitments concerning pensions and affiliated undertakings must be disclosed separately;
- (8) the net turnover within the meaning of Article 28, broken down by categories of activity and into geographical markets in so far as, taking account of the manner in which the sale of products and the provision of services falling within the company's ordinary activities are organized, these categories and markets differ substantially from one another;
- (9) the average number of persons employed during the financial year, broken down by categories and, if they are not disclosed separately in the profit and loss account, the staff costs relating to the financial year, broken down as provided for in Article 23 (6);
- (10) the extent to which the calculation of the profit or loss for the financial year has been affected by a valuation of the items which, by way of derogation from the principles enunciated in Articles 31 and 34 to 42, was made in the financial year in question or in an earlier financial year with a view to obtaining tax relief. Where the influence of such a valuation on future tax charges is material, details must be disclosed;
- (11) the difference between the tax charged for the financial year and for earlier financial years and the amount of tax payable in respect of those years, provided that this difference is material for purposes of future taxation. This amount may also be disclosed in the balance sheet as a cumulative amount under a separate item with an appropriate heading;
- (12) the amount of the emoluments granted in respect of the financial year to the members of the administrative, managerial and supervisory bodies by reason of their responsibilities, and any commitments arising or entered into in respect of retirement pensions for former members of those bodies, with an indication of the total for each category;
- (13) the amount of advances and credits granted to the members of the administrative, managerial and supervisory bodies, with indications of the interest rates, main conditions and any amounts repaid, as well as commitments entered into on their behalf by way of guarantees of any kind, with an indication of the total for each category.
2. Pending subsequent coordination, the Member States need not apply paragraph 1 (2) to financial holding companies within the meaning of Article 5 (3).

Article 44

The Member States may permit the companies referred to in Article 11 to draw up abridged notes on their accounts without the information required in Article 43 (1) (5) to (12). However, the notes must disclose the information specified in Article 43 (1) (6) in total for all the items concerned.

Article 12 shall apply.

Article 45

1. The Member States may allow the disclosures prescribed in Article 43 (1) (2):

- (a) to take the form of a statement deposited in accordance with Article 3 (1) and (2) of Directive 68/151/EEC; this must be disclosed in the notes on the accounts;

(b) to be omitted when their nature is such that they would be seriously prejudicial to any of the undertakings to which Article 43 (1) (2) relates. The Member States may make such omissions subject to prior administrative or judicial authorization. Any such omission must be disclosed in the notes on the accounts.

2. Paragraph 1 (b) shall also apply to the information prescribed by Article 43 (1) (8).

The Member States may permit the companies referred to in Article 27 to omit the disclosures prescribed by Article 43 (1) (8). Article 12 shall apply.

SECTION 9

Contents of the annual report

Article 46

1. The annual report must include at least a fair review of the development of the company's business and of its position.
2. The report shall also give an indication of:
 - (a) any important events that have occurred since the end of the financial year;
 - (b) the company's likely future development;
 - (c) activities in the field of research and development;
 - (d) the information concerning acquisitions of own shares prescribed by Article 22 (2) of Directive 77/91/EEC.

SECTION 10

Publication

Article 47

1. The annual accounts, duly approved, and the annual report, together with the opinion submitted by the person responsible for auditing the accounts, shall be published as laid down by the laws of each Member State in accordance with Article 3 of Directive 68/151/EEC.

The laws of a Member State may, however, permit the annual report not to be published as stipulated above. In that case, it shall be made available to the public at the company's registered office in the

Member State concerned. It must be possible to obtain a copy of all or part of any such report free of charge upon request.

2. By way of derogation from paragraph 1, the Member States may permit the companies referred to in Article 11 to publish:

- (a) abridged balance sheets showing only those items preceded by letters and roman numerals in Articles 9 and 10, disclosing separately the information required in brackets in D (II) under 'Assets' and C under 'Liabilities' in Article 9 and in D (II) in Article 10, but in total for all the items concerned; and
- (b) abridged notes on their accounts without the explanations required in Article 43 (1) (5) to (12). However, the notes must disclose the information specified in Article 43 (1) (6) in total for all the items concerned.

Article 12 shall apply.

In addition, the Member States may relieve such companies from the obligation to publish their profit and loss accounts and annual reports and the opinions of the persons responsible for auditing the accounts.

3. The Member States may permit the companies mentioned in Article 27 to publish:

- (a) abridged balance sheets showing only those items preceded by letters and roman numerals in Articles 9 and 10 disclosing separately, either in the balance sheet or in the notes on the accounts:
 - C (I) (3), C (II) (1), (2), (3) and (4), C (III) (1), (2), (3), (4) and (7), D (II) (2), (3) and (6) and D (III) (1) and (2) under 'Assets' and C (1), (2), (6), (7) and (9) under 'Liabilities' in Article 9,
 - C (I) (3), C (II) (1), (2), (3) and (4), C (III) (1), (2), (3), (4) and (7), D (II) (2), (3) and (6), D (III) (1) and (2), F (1), (2), (6), (7) and (9) and (I) (1), (2), (6), (7) and (9) in Article 10,
 - the information required in brackets in D (II) under 'Assets' and C under 'Liabilities' in Article 9, in total for all the items concerned and separately for D (II) (2) and (3) under 'Assets' and C (1), (2), (6), (7) and (9) under 'Liabilities',
 - the information required in brackets in D (II) in Article 10, in total for all the items

concerned, and separately for D (II) (2) and (3);

- (b) abridged notes on their accounts without the information required in Article 43 (1) (5), (6), (8), (10) and (11). However, the notes on the accounts must give the information specified in Article 43 (1) (6) in total for all the items concerned.

This paragraph shall be without prejudice to paragraph 1 in so far as it relates to the profit and loss account, the annual report and the opinion of the person responsible for auditing the accounts.

Article 12 shall apply.

Article 48

Whenever the annual accounts and the annual report are published in full, they must be reproduced in the form and text on the basis of which the person responsible for auditing the accounts has drawn up his opinion. They must be accompanied by the full text of his report. If the person responsible for auditing the accounts has made any qualifications or refused to report upon the accounts, that fact must be disclosed and the reasons given.

Article 49

If the annual accounts are not published in full, it must be indicated that the version published is abridged and reference must be made to the register in which the accounts have been filed in accordance with Article 47 (1). Where such filing has not yet been effected, the fact must be disclosed. The report issued by the person responsible for auditing the accounts may not accompany this publication, but it must be disclosed whether the report was issued with or without qualification, or was refused.

Article 50

The following must be published together with the annual accounts, and in like manner:

- the proposed appropriation of the profit or treatment of the loss,
- the appropriation of the profit or treatment of the loss,

where these items do not appear in the annual accounts.

SECTION 11

Auditing

Article 51

1. (a) Companies must have their annual accounts audited by one or more persons authorized by national law to audit accounts.
- (b) The person or persons responsible for auditing the accounts must also verify that the annual report is consistent with the annual accounts for the same financial year.
2. The Member States may relieve the companies referred to in Article 11 from the obligation imposed by paragraph 1.

Article 12 shall apply.

3. Where the exemption provided for in paragraph 2 is granted the Member States shall introduce appropriate sanctions into their laws for cases in which the annual accounts or the annual reports of such companies are not drawn up in accordance with the requirements of this Directive.

SECTION 12

Final provisions

Article 52

1. A Contact Committee shall be set up under the auspices of the Commission. Its function shall be:
 - (a) to facilitate, without prejudice to the provisions of Articles 169 and 170 of the Treaty, harmonized application of this Directive through regular meetings dealing in particular with practical problems arising in connection with its application;
 - (b) to advise the Commission, if necessary, on additions or amendments to this Directive.
2. The Contact Committee shall be composed of representatives of the Member States and representatives of the Commission. The chairman shall be a representative of the Commission. The Commission shall provide the secretariat.
3. The Committee shall be convened by the chairman either on his own initiative or at the request of one of its members.

Article 53

1. For the purposes of this Directive, the European unit of account shall be that defined by Commission Decision No 3289/75/ECSC of 18 December 1975 ⁽¹⁾. The equivalent in national currency shall be calculated initially at the rate obtaining on the date of adoption of this Directive.

2. Every five years the Council, acting on a proposal from the Commission, shall examine and, if need be, revise the amounts expressed in European units of account in this Directive, in the light of economic and monetary trends in the Community.

Article 54

This Directive shall not affect laws in the Member States requiring that the annual accounts of companies not falling within their jurisdiction be filed in a register in which branches of such companies are listed.

Article 55

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

2. The Member States may stipulate that the provisions referred to in paragraph 1 shall not apply until 18 months after the end of the period provided for in that paragraph.

That period of 18 months may, however, be five years:

- (a) in the case of unregistered companies in the United Kingdom and Ireland;
- (b) for purposes of the application of Articles 9 and 10 and Articles 23 to 26 concerning the layouts for the balance sheet and the profit and loss account, where a Member State has brought other layouts for these documents into force not more than three years before the notification of this Directive;
- (c) for purposes of the application of this Directive as regards the calculation and disclosure in balance sheets of depreciation relating to assets covered by the asset items mentioned in Article 9, C (II) (2) and (3), and Article 10, C (II) (2) and (3);

(d) for purposes of the application of Article 47 (1) of this Directive except as regards companies already under an obligation of publication under Article 2 (1) (f) of Directive 68/151/EEC. In this case the second subparagraph of Article 47 (1) of this Directive shall apply to the annual accounts and to the opinion drawn up by the person responsible for auditing the accounts;

(e) for purposes of the application of Article 51 (1) of this Directive.

Furthermore, this period of 18 months may be extended to eight years for companies the principal object of which is shipping and which are already in existence on the entry into force of the provisions referred to in paragraph 1.

3. The Member States shall ensure that they communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 56

The obligation to show in the annual accounts the items prescribed by Articles 9, 10 and 23 to 26 which relate to affiliated undertakings, and the obligation to provide information concerning these undertakings in accordance with Article 13 (2), 14 or 43 (1) (7), shall enter into force at the same time as a Council Directive on consolidated accounts.

Article 57

1. Until the entry into force of a Council Directive on consolidated accounts, and without prejudice to the provisions of Directives 68/151/EEC and 77/91/EEC, the Member States need not apply to the dependent companies of any group governed by their national laws the provisions of this Directive concerning the content, auditing and publication of the annual accounts of such dependent companies where the following conditions are fulfilled:

- (a) the dominant company must be subject to the laws of a Member State;
- (b) all shareholders or members of the dependent company must have declared their agreement to the exemption from such obligation; this declaration must be made in respect of every financial year;
- (c) the dominant company must have declared that it guarantees the commitments entered into by the dependent company;
- (d) the declarations referred to in (b) and (c) must be published by the dependent company in accordance with the first subparagraph of Article 47 (1);
- (e) the annual accounts of the dependent company must be consolidated in the group's annual accounts;

⁽¹⁾ OJ No L 327, 19. 12. 1975, p. 4.

- (f) the exemption concerning the preparation, auditing and publication of the annual accounts of the dependent company must be disclosed in the notes on the group's annual accounts.
2. Articles 47 and 51 shall apply to the group's annual accounts.
3. Articles 2 to 46 shall apply as far as possible to the group's annual accounts.

Article 58

1. Until the entry into force of a Council Directive on consolidated accounts, and without prejudice to the provisions of Directive 77/91/EEC, the Member States need not apply to the dominant companies of groups governed by their national laws the provisions of this Directive concerning the auditing and publication of the profit and loss accounts of such dominant companies where the following conditions are fulfilled:
- (a) this exemption must be published by the dominant company in accordance with Article 47 (1);
- (b) the annual accounts of the dominant company must be consolidated in the group's annual accounts;
- (c) the exemption concerning the auditing and publication of the profit and loss account of the dominant company must be mentioned in the notes on the group's annual accounts;
- (d) the profit or loss of the dominant company, determined in accordance with the principles of this Directive, must be shown in the balance sheet of the dominant company.
2. Articles 47 and 51 shall apply to the group's annual accounts.
3. Articles 2 to 46 shall apply as far as possible to the group's annual accounts.

Article 59

Pending subsequent coordination, the Member States may permit the valuation of holdings in affiliated undertakings by the equity method provided the following conditions are fulfilled:

- (a) the use of this method of valuation must be disclosed in the notes on the accounts of a company having such holdings;

- (b) the amount of any differences existing when such holdings were acquired between their purchase price and the percentage of the capital which they represent, including the affiliated undertaking's reserves, profit and loss and profits and losses brought forward, must be shown separately in the balance sheet or in the notes on the accounts of a company having such holdings;
- (c) the purchase price of these holdings shall be increased or reduced in the balance sheet of a company having such holdings by the profits or losses realized by the affiliated undertaking according to the percentage of capital held;
- (d) the amounts specified in subparagraph (c) shall be shown each year in the profit and loss account of a company having such holdings as a separate item with an appropriate heading;
- (e) when an affiliated undertaking distributes dividends to a company having such holdings, their book values shall be reduced accordingly;
- (f) when the amounts shown in the profit and loss account in accordance with subparagraph (d) exceed the amounts of dividends already received or the payment of which can be claimed, the amount of the differences must be placed in a reserve which cannot be distributed to shareholders.

Article 60

Pending subsequent coordination, the Member States may prescribe that investments in which investment companies within the meaning of Article 5 (2) have invested their funds shall be valued on the basis of their market value.

In that case, the Member States may also waive the obligation on investment companies with variable capital to show separately the value adjustments referred to in Article 36.

Article 61

Until the entry into force of a Council Directive on consolidated accounts, the Member States need not apply to the dominant companies of groups governed by their national laws the provisions of Article 43 (1) (2) concerning the amount of capital and reserves and the profits and losses of the undertakings concerned if the annual accounts of such undertakings are

consolidated into the group's annual accounts or if the holdings in those undertakings are valued by the equity method.

Article 62

This Directive is addressed to the Member States.

Done at Brussels, 25 July 1978.

For the Council

The President

K. von DOHNANYI
