

The Impact of EU accession on Water Services Corporation

A report prepared by

EUROPA Research & Consultancy Services Ltd

for

Water Services Corporation

PART IV
Conclusions
(EU Health & Safety Rules)

April 2000

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PART IV / Conclusions / EU Health & Safety Rules

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WATER SERVICES CORPORATION

Water Services Corporation

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Introduction

Terms of reference

This volume is part of a wider report on the impact of EU accession on the Water Services Corporation originally commissioned in April 1st 1999. The terms of reference are the following:

1. The need to update to the WSC report submitted in July 1996 and prepared by Richard Morris & Associates of Scotland entitled "European Union Water Directives Study".
2. The need for a study of the impact of EU membership on WSC through an assessment of the adoption by Malta of the *acquis communautaire*.
3. Proposals for reform in view of the adjustments rendered necessary by membership.
4. Proposals for a negotiating position to be adopted by WSC in view of accession negotiations.
5. Proposal of an implementation strategy, including a time frame to be followed by the Corporation between now and accession.
6. An implementation programme as a follow-up to the study.

The above constitute the terms of reference of this report.

The first phase

In an initial phase leading to the above, Europa Research & Consultancy Services was given the task to prepare and submit a research report covering the following parts, namely:

1. The need to update to the report submitted in July 1996 by Richard Morris & Associates of Scotland entitled "European Union Water Directives Study".
2. The need for a study of the impact of EU membership on WSC through an assessment of the adoption by Malta of the *acquis communautaire*. This section, which shall form the core of the report, shall include the following sections:
 - (a) Ramifications of the EU **Environment policy** (not covered in point 1);
 - (b) **EU incentives** and how to access them, including

community programmes and funding, both before and after accession:

- (c) EU **Public Procurement** rules;
- (d) EU rules on **Health & Safety at work**;
- (e) **Competition policy** and other issues.

3. Proposals for reform in view of the adjustments rendered necessary by membership.
4. Proposals for a negotiating position to be adopted by WSC in view of accession negotiations.

Submission of interim reports: Parts I to V

Throughout the year 1999, five interim reports were submitted to WSC covering points 1 and 2(a) to 2(e) above.

These reports were duly studied by the WSC in close consultation with Europa Research & Consultancy Services. Subsequently, WSC submitted its views and positions on the points raised in the said five reports.

Concluding reports

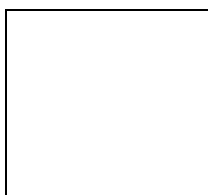
Taking into accounts WSC's submissions on each of the five interim reports, Europa Research & Consultancy is now submitting its final report on each of these reports. For clarity, the concluding report is again divided into five parts on the same lines of division as the interim reports. In this case, however, the concluding report will focus on points 3 and 4 above, namely, proposals for reform in view of the adjustments rendered necessary by membership accompanied with a proposals for a negotiating position and an implementation strategy to be adopted by WSC in view of accession negotiations.

How this report is divided

This volume constitutes the PART IV of the concluding report and is being submitted in April 2000. It covers the area of the EU Health & Safety Rules. A further four reports, concluding Parts I, II, III and V will also be submitted.

This volume is divided into the following sections:

1. A brief summary of the key legislation and main points arising out of the interim report – Part IV (EU Position);
2. A brief summary of WSC's position on the EU legislation (WSC position);
3. Proposals for reform and implementation (Reform & Implementation) (for the purposes of implementation, the official working



date of 1st January 2003 shall be adopted) and

4. Proposals for WSC's negotiating position (WSC Negotiating Position).

*Phase 2:
Meetings and
follow-up to
the report*

The submission of all five concluding reports shall be followed as necessary by information and debriefing meetings with the WSC officials in order to ensure that maximum utility is made out of the report leading to an effective follow-up strategy.

*Note on the
report*

This report does not attempt to constitute an academic study. Quite the contrary, it tries to tackle the issues in a practical manner diluting their complexities and presenting them in an intelligible and easy-to-read manner. To this end, technical references and footnotes have been kept to a minimum.

*Instructions
on how to
read the
report*

The report relies heavily on the use of margin notes to indicate the contents of each section or paragraph accordingly. This is done to enable easier reference and reading. All margins notes are listed in the content list and on the left-hand side of every paragraph. Reading through the margin notes one can quickly get an idea of the issues that are tackled in the report and cross-refer to different sections.

Working team

The team working on the project was led by Dr Joanna Drake and included Dr Mariosa Vella Cardona. Team members hold academic post-graduate training on EU affairs and an active involvement in lecturing and/or research contributions on the subject.

EU Health & Safety rules

Introduction As explained in the introduction, this document follows up on Part IV of the WSC report which had focused in detail on EU rules on occupational health & safety, as follows:

1. Council Directive 89/391/EEC
2. Council Directive 89/654/EEC
3. Council Directive 89/655/EEC as amended by Council Directive 95/63/EC
4. Council Directive 89/656/EEC
5. Council Directive 90/269/EEC
6. Council Directive 90/270/EEC
7. Council Directive 92/57/EEC
8. Council Directive 92/58/EEC
9. Council Directive 92/85/EEC
10. Council Directive 94/33/EC
11. Council Directive 86/188/EEC
12. Council Directive 90/394/EEC as amended by Council Directive 97/42/EC and Council Directive 1999/38/EC
13. Council Directive 98/24/EC
14. Council Directive 88/364/EEC
15. Council Directive 96/82/EC

In the case of each of the above directives, this document is divided in the following sections:

- A brief summary of the key legislation and main points arising out of the interim report – Part IV (**EU Position**);
- A brief summary of WSC's position on the EU legislation (**WSC position**);
- Proposals for reform and implementation (**Reform & Implementation**) (for the purposes of implementation, the official working date of 1st January 2003 shall be adopted) and
- Proposals for WSC's negotiating position (**WSC Negotiating Position**).

1. Council Directive on the introduction of measures to encourage improvements in the safety and health of workers at work

EU Position

*Council
Directive
89/391/EEC*

The objective of this Directive is to ensure a higher degree of protection of workers at work through the implementation of preventive measures to guard against accidents at work and occupational diseases as well as through the information, consultation, balanced participation and training of workers and their representatives. This framework Directive serves as a basis for further individual directives dealing with particular aspects, discussed hereunder.

This Directive imposes a number of general as well as specific obligations on the employer. Briefly, it may be said that in terms of this Directive, employers are obliged:

- to ensure the safety and health of workers in every aspect related to the work, primarily on the basis of the specified general principles of prevention, without involving the workers in any financial cost;
- to evaluate the occupational risks, inter alia in the choice of work equipment and the fitting-out of workplaces, and to make provision for adequate protective and preventive services;
- to keep a list of, and draw up reports on, occupational accidents;
- to take the necessary measures for first aid, fire-fighting, evacuation of workers and action required in the event of serious and imminent danger;
- to inform and consult workers and allow them to take part in discussions on all questions relating to safety and health at work;
- to designate workers to carry out health and safety duties and ensure that they are given adequate time for these obligations and are not disadvantaged by their responsibilities in this regard;
- to ensure that each worker receives adequate safety and health training throughout the period of employment.

WSC Position

*WSC's
present
position*

The present position of WSC vis a vis this Directive appears to be that as an employer, the Corporation does not comply with all the obligations imposed by this Framework Directive.

However, compliance with the Directive has been registered in

so far as the following aspects of health and safety are concerned:

- a Health & Safety Officer has been appointed who to date has held office for a period of one year;
- a number of steps have already been taken in so far as fire prevention and safety is concerned and first-aid boxes are also available on the premises, though not to the extent required by the Directive;
- a general training programme on Health & Safety for employees has been carried out by WSC. Nonetheless, it seems that these programmes are very general and not sufficiently comprehensive. This is particularly due to the fact that no appropriate risk assessments of health hazards on the place of work are presently carried out by WSC as employer in the sense required by the Directive. Furthermore, no work-specific training to employers is given;
- in so far as the obligation of employers to consult workers and/or their representatives and allow them to take part in discussions on all questions relating to safety and health is concerned, this seems to have been in part covered by the collective agreement negotiated between the trade union/s representing WSC employees and WSC management on issues of health & safety. Nonetheless, it may be apt to note that it seems that in terms of the Directive, a more periodic form of consultation on health and safety issues would be required.

Reform & Implementation

Proposals for reform

On a general note, one may simply state that Malta's eventual membership of the European Union would entail full compliance with the obligations imposed upon WSC as an employer by this Directive as well as by other Directives.

In more concrete terms, this would imply that at least in so far as Council Directive 89/391/EEC is concerned, this would entail in particular the adoption of the following measures:

- WSC would be required to carry out detailed risk assessments and implementation of preventive measures;
- WSC would be obliged to comply with certain administrative requirements especially in so far as a record-keeping of occupational accidents is concerned;

- Work-specific training has to be given and periodic consultation regarding health and safety issues with employees and/or their representatives is to be carried out;
- An identification of particularly sensitive risk groups, the main causes of dangers affecting them and an implementation of appropriate protective measures is to be carried out by WSC

In order to implement these reforms, WSC has to draw up a plan – typically under the responsibility of its full-time health and safety officer – with the list of actions needs along the lines outlined above and a set of target dates for compliance in time for 1st January 2003. As part of the implementation of this action plan, the work of the WSC H&S officer should be audited on a regular basis by outside expertise in order to ensure that gradual compliance is being consistently and effectively achieved and that the target dates are being respected.

As part of this exercise, the WSC H&S officer ought to also – perhaps with the assistance of a financial controller - establish figures on the cost that the corporation presently bears out of lack of proper occupational H&S enforcement, in terms of sick leave and other costs related to occupational injuries. EU experience has shown that wherever companies established such costs, they found that proper enforcement of H&S standards also pays the company financial dividends in the medium-to-long term.

At the time of writing, the Maltese Parliament is discussing a new law which will set up a national Authority on Occupational Health & Safety. It is likely that this new authority will go a long way in enabling Maltese companies, including WSC, to gear up for this task, particularly through the training of trainers and the drawing up of the necessary action plans.

In the light of recent increase in human losses from accidents and injuries at the place of work, one should expect that the new H&S law will be scrupulously enforced and indeed, enforcement will also be closely monitored by the European Union.

Negotiating Position

Proposals for When negotiating the terms of accession, Malta will be doing

*negotiating
position to be
adopted*

so as a country. Thus, with respect to EU health & safety rules, it does not seem to be possible for Malta to negotiate specific arrangements for specific companies such as WSC unless it were established that the impact of adopting these rules would be particularly devastating on such specific companies.

In this report, it has been established that although WSC has some way to go before achieving full compliance to EU rules on H&S, such compliance is not insurmountable from a practical or even from a financial point of view.

In the light of the above, it is submitted that WSC should align itself to the EU H&S standards according to an implementation plan which is achieved by the target date of 1st January 2003 and that no requests for transitional periods or special arrangements ought to be made.

2. Council Directive 89/654/EEC concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC):

EU Position

*Council
Directive
89/654/EEC*

The objective of this Directive is to introduce minimum measures designed to improve the working environment in order to guarantee a better standard of safety and health protection.

In so far as employers' obligations under this Directive are concerned, the Directive seeks to make a distinction. It distinguishes between workplaces which are **used for the first time after the 31st. December 1992 or which undergo modifications after that date** and workplaces which are **already in use before 1st. January 1993**. In so far as the former are concerned, these must satisfy the minimum safety and health requirements laid down in Annex I whereas in the case of the latter, they must satisfy the requirements laid down in Annex II.

Furthermore, besides being obliged to inform, consult and seek the participation of workers on the matters covered by the Directive, employers must comply with other general requirements such as the regular cleaning of workplaces and the need to keep emergency exits clear.

WSC Position

*WSC's
present
position*

Primarily, it might be apt to point out that Water Services Corporation occupies and administers both "new workplaces"

position

which have been occupied by WSC after 1992 and modified thereafter as well as premises which were already in use before the 1st. January 1993. This essentially means that different requirements in so far as Council Directive 89/654/EEC is concerned are imposed on WSC as employer depending on the applicable date (Annex I or Annex II requirements). These premises may be identified as including the following:

- Luqa and Gozo head offices
- 9 District Offices
- Valletta office
- Kordin Stores
- Bombi Offices
- Laboratories
- Ta' Qali workshops
- over 100 reservoirs
- groundwater sources
- pumping stations and
- reverse osmosis plants (in so far as they are administered by a subsidiary of WSC)

Annex I and Annex II requirements generally overlap though the differences between these two Annexes have been highlighted in the July 1999 report on Health and Safety.

Reform & Implementation

*Proposals for
reform*

In so far as proposals for reform are concerned, it would be best to go through the various requirements imposed by the Annexes to Council Directive 89/654/EEC in order to ascertain the extent to which Malta's accession to the EU would entail reforms on the part of WSC.

Stability and solidity of buildings and electrical installations:

In so far as requirements concerning **stability and solidity** and **electrical installations** are concerned, it seems that on a general note one may state that there is no immediate cause for preoccupation, in so far as WSC is concerned. Nonetheless, a structural assessment and an assessment of the electrical installations of each workplace would be necessary for confirmatory purposes. The main sites which have been identified by WSC officers as being ones of immediate concern, in so far as the two requirements mentioned above are concerned are: Kordin stores, Bombi offices, reservoirs, workshops, pumping stations and boreholes.

- **Emergency routes and exits, fire detection and fire fighting:**

In so far as these requirements are concerned, it seems that WSC lags far behind. In fact, as pointed out by WSC officers, in some cases structural alterations to certain buildings may even be necessary in order to ensure compliance with these requirements. In fact, a report has already been commissioned by WSC to the Civil Protection Department for a fire risk assessment of the Luqa Head Offices. This report, according to sources has not as yet been completed. Nonetheless, it seems *prima facie* that 3 fire exits, fire doors and alterations to the main gate in order to ensure access to fire engines seem to be indispensable.

Other WSC premises which have been identified by WSC officers as being priority candidates for concern are the Valletta Office, the Workshops which are located partially at basement level and the District Offices.

- **Ventilation and temperature:**

On a general note one may state that this requirement has not been identified as being a priority area of non-compliance. Nonetheless, an assessment of each workplace would be necessary for confirmatory purposes. In fact, some priority sites for concern, in so far as these requirements are concerned may include some district substores located at basement level and which are also used as offices.

- **Floors, walls, ceilings and roofs, windows and skylights, doors and gates, traffic routes and escalators:**

On a general note one may state that these requirements should not be major areas for non-compliance although an assessment of building constructional elements, finishes and services of each workplace would be necessary for confirmatory purposes. In fact, some minor modifications and construction work, depending on the assessment made, might be necessary. It might be apt to point out that in so far as workplaces which were already in use before the 1st. January 1993 are concerned, no specific provision is made in Annex II of the Directive as regards floor, walls, ceilings windows and skylights.

- **Size of workstations and rest rooms:**

These requirements entail an assessment of the suitability of

certain workplaces, the functions carried therein and the rest rooms provided. Kordin loading bay has been identified by the Health and Safety Officer of WSC as being potentially dangerous to workers and immediate investigative and corrective action may be required in so far as this site is concerned. Premises which may be identified as being candidates for reform in so far as the provision of restrooms is concerned are workshops.

- **Sanitary equipment:**

On a general note one may state that this should not be a major area of non-compliance although an assessment of each workplace would be necessary for confirmatory purposes.

- **First-aid rooms and equipment:**

In so far as this requirement is concerned, it has been noted that existing facilities are not in full compliance with the requirements of the Directive. New facilities are in fact already being provided for at Kordin workshops.

Furthermore, it may be apt to point out that in so far as workplaces which were already in use before the 1st. January 1993 are concerned, this requirement is merely reduced to a requirement that workplaces have first-aid equipment and that it is marked and easily accessible.

- **Access for disabled people:**

An assessment of the various workplaces should be carried out in order to ensure access to disabled people especially in so far as premises which are accessible to the general public are concerned such as the Luqa Head Office and the Valletta City Gate Offices.

- **Outdoor workstations:**

WSC is to ensure that there is greater compliance even with national legislation especially in so far as works signage is concerned.

Costs: The costs for the above-mentioned changes and alterations need to be established. It is proposed that a detailed plan for implementing these changes and alterations according to a time frame which expires well ahead of 1st January 2003 be drawn up by the WSC H&S officer along with the necessary costings.

Negotiating Position

Proposals for negotiating position to be adopted

For reasons already explained above, WSC should align itself to the EU H&S standards according to an implementation plan which is achieved by the target date of 1st January 2003 and no requests for transitional periods or special arrangements ought to be made.

3. Council Directive concerning the minimum health and safety requirements for the use of work equipment by workers at work**EU Position**

Council Directive 89/655/EEC as amended by Council Directive 95/63/EC

The objective of this Directive is the implementation of the minimum requirements for concrete measures concerning the use of work equipment to improve health and safety for workers.

Briefly, it may be said that the Directive entails the following obligations on the part of the employer:

- to base the choice of work equipment on the specific working conditions and hazards existing for workers in order to eliminate or at least minimise those hazards. Equipment made available to workers for the first time after the 31st. December 1992 must comply with the minimum requirements laid down in the Annex, in as far as no other Community Directive is applicable or is so only partially; work equipment already made available for use by the 31st. December 1992 must comply with the minimum requirements no later than four years after that date. Use, maintenance or repair of work equipment involving a specific risk may only be carried out by the workers who have been specifically designated to the task;
- to provide workers with adequate information and written instructions on work equipment, containing at least adequate safety and health information;
- to provide the workers using the equipment with adequate training, including training on any risk which such use might entail;
- to ensure that where the safety of work equipment depends on the installation conditions it will be subject to an initial inspection and inspection after each time it is reassembled;

- to ensure that the work equipment is subject to periodic inspections and special inspections after any occurrence liable to jeopardise its safety;
- to take fully into account the work station and position of workers while using work equipment, as well as the ergonomic principles, when applying the minimum safety requirements;
- to ensure that workers are aware of the potential dangers to which they are exposed in their immediate working environment;
- to provide for the consultation and participation of workers on matter covered by the Directive.

WSC Position

WSC's present position

In so far as compliance with the provisions of this Directive is concerned, it seems that according to information forwarded by WSC officials, WSC is not always in total compliance. This is so especially in so far as the provision of adequate information and training to workers and consultation with such workers is concerned.

Reform & Implementation

Proposals for reform

A detailed risk assessment of the work equipment used would be necessary in order to ensure compliance with the provisions of this Directive. Improved procedures and practices are also required to be adopted and implemented by WSC in so far as the regular inspection of work equipment in order to ensure that health and safety conditions are maintained, is concerned. Similarly, this is also the case in so far as appropriate record-keeping of such inspections is concerned. Furthermore, a determined initiative has to be adopted by WSC to consult workers and keep them fully informed and provide them with adequate training with regard to the work equipment used by them.

Negotiating Position

Proposals for negotiating position to be adopted

WSC should have no major difficulty in aligning itself to the EU H&S standards in time by 1st January 2003 and no requests for transitional periods or special arrangements ought to be made.

4. Council Directive on the minimum health and safety

requirements for the use by workers of personal protective equipment at the workplace

EU Position

*Council
Directive
89/656/EEC*

The objective of this Directive is to lay down minimum requirements for the assessment, selection and correct use of personal protective equipment. Nonetheless, priority must be given to collective safety measures.

In terms of this Directive, employers are obliged to:

- ensure that personal protective equipment is compliant with the relevant Community provisions on design and manufacture with respect to safety and health and with the conditions set out in the Directive. The employer must provide the appropriate equipment free of charge and ensure that it is in good working order and hygienic condition.
- before choosing personal protective equipment, assess the extent to which it complies with the conditions set out in the Directive. This includes an analysis of risks which cannot be avoided by other means and definition and comparison of the requisite characteristics of the equipment.
- inform, consult and allow for the participation of workers

On the other hand, Member States are obliged to ensure that general rules are established for the use of personal protective equipment and/or covering cases and situations where the employer must provide such equipment. Obviously, once these rules are enacted at a national level, employers in that Member State must ensure full compliance with the national rules enacted in so far as the use of personal protective equipment is concerned.

WSC Position

*WSC's
present
position*

On the basis of reports forwarded by WSC officers, it may be said that on a general note WSC is in compliance with the provisions of this Directive. Certain defaults on the same lines as those noted within the context of Council Directive 89/655 have however also been highlighted.

Reform & Implementation

*Proposals for
reform*

One may remark that administrative procedures which ensure the effective distribution of personal protective equipment must surely be improved upon. Furthermore, the enforcement of the use of such equipment in the interests of the health and safety

of employees is also indispensable and this would include appropriate training for an efficacious use of such equipment.

Negotiating Position

Proposals for negotiating position to be adopted WSC should be in a position to align itself to the EU H&S standards by 1st January 2003 and no requests for transitional periods or special arrangements ought to be made.

5. Council Directive on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers

EU Position

Council Directive 90/269/EEC The objective of this Directive is to ensure that workers are protected against the risks involved in the manual handling of heavy loads.

In terms of this Directive, employers are obliged:

- to use the appropriate means to avoid the need for manual handling of loads by workers, or, where this cannot be avoided, to take the appropriate organisational measures to reduce the risk involved, having regard to Annex I;
- to ensure that workers receive adequate information on the weight of a load and the centre of gravity or the heaviest side when a package is eccentrically loaded, and to ensure proper training and precise information on how to handle loads correctly, and the risks involved in incorrect handling, having regard to Annexes I and II;
- consultation and participation of workers shall take place in accordance with the framework Directive on matters covered by this Directive.

The Annexes contain reference information on the characteristics of the load and the working environment, the physical effort required, the requirements of the activity and the individual risk factors.

WSC Position

WSC's present position On the basis of information forwarded by WSC officers, one can assert that WSC, as in the case of the other Directives, is not in full compliance with the provisions of the Directive. Nonetheless, it is recommendable that a risk assessment and an operational review of current practices is carried out in order

to highlight in greater detail actual areas of non-compliance.

Reform & Implementation

Proposals for reform

In order to ascertain compliance with this Directive, as already said above, a detailed risk assessment would be necessary. The following are activities carried out by WSC workers where priority should be given at an assessment stage in order to ensure compliance with the Directive:

- handling of pipes;
- handling of chlorine and gas cylinders (eg. Acetylene etc.);
- handling of compactors etc. in connection with road reinstatement;
- lowering and hoisting of pumps;
- transfer, handling, loading and unloading of supplies to stores;
- handling of bulky paper documents, files etc.

The purchase of appropriate loading equipment to facilitate handling operations is also recommendable.

Negotiating Position

Proposals for negotiating position to be adopted

WSC should align itself to the EU H&S standards according to an implementation plan which is achieved by the target date of 1st January 2003 and no requests for transitional periods or special arrangements ought to be made.

6. Council Directive on the minimum safety and health requirements for work with display screen equipment:

EU Position

Council Directive 90/270/EEC

The objective of this Directive is to implement specific minimum requirements to guarantee the safety of workstations with display screen equipment.

In terms of this Directive, the following obligations are imposed on employers:

- employers are obliged to analyse workstations, evaluate the safety and health conditions and remedy any risks to eyesight, physical problems and problems of mental stress;
- workstations which are put into service for the first time after the 31st. December 1992, must meet the minimum requirements laid down in the Annex for equipment,

environment (space, lighting, noise, heat, etc) and operator/computer interface;

- workstations which were already in service on the 31st. December 1992, had to be adapted no later than the 31st. 1996;
- workers' activities must be planned in such a way that daily work on a display screen is periodically interrupted by breaks or changes of activity;
- workers are entitled to an appropriate eye and eyesight test before commencing display screen work, at regular intervals thereafter, and if they experience visual difficulties. They are also entitled to an ophthalmological examination if necessary. They must be provided with special corrective appliances, if required, at no additional cost to them;
- workers are also entitled to information on measures applicable to their workstation and training in workstation use;
- workers must be consulted and allowed to participate on the matters covered by the Directive.

WSC Position

WSC's present position

As in the case of the other Directives, an operations review and assessment of current facilities and practices would be necessary in order to ascertain the extent to which WSC is in compliance with this Directive. It may be said, however, that the entitlement of workers to an eyesight test prior to the commencement of display screen work and at periodic intervals thereafter is already provided for in the WSC/GWU/UHM collective agreement.

Reform & Implementation

Proposals for reform

The main impacts on WSC in so far as this Directive is concerned may be said to be financial and administrative. This is so particularly in so far as consultation and training obligations of the employer are concerned. Furthermore, a particular area of non-compliance (as noted by WSC officers) arises from the fact that not all workers have an ergonomic chair that is a chair which has a seat which is adjustable in height and a seat back adjustable in both height and tilt as required by the Annex to the Directive. Procurement of such equipment would obviously be necessary for compliance purposes.

Negotiating Position

Proposals for negotiating position to be adopted

Despite the obvious expenses that may be incurred for the full implementation of this Directive, there is no insurmountable difficulty in adhering to this law. Indeed, there is no substantive reason why WSC should not align itself to the EU H&S standards by the target date of 1st January 2003 and therefore no requests for transitional periods or special arrangements ought to be made.

7. Council Directive on the implementation of minimum safety and health requirements at temporary or mobile work sites

EU Position

Council Directive 92/57/EEC

The objective of this Directive is to foster an improvement in working conditions in this sector, where workers are exposed to particularly high risks, by taking account of safety and health at the project design and organisation stages as well as to prevent risks by establishing a chain of responsibility linking all the parties involved.

This Directive provides for the appointment of a health and safety co-ordinator for any site on which more than one contractor is present and for a health and safety plan to be drawn up. Furthermore, in the case of large projects a prior notice must be displayed on the construction site.

Moreover, in virtue of this Directive, employers are obliged to adhere to the minimum safety and health requirements applicable to work sites and set out in Annex IV of the Directive. The aspects covered include energy distribution systems, emergency routes and exits, ventilation, temperature, traffic routes and danger areas, sanitary installations, etc. Employers are also obliged to act on the comments of the health and safety coordinator.

WSC Position

WSC's present position

It is hardly ever the case that WSC is involved in a major project as defined by the Directive, that is, one where more than one contractor is involved. This means that the main obligations identified by the Directive hardly ever devolve upon WSC.

On a general note one may say that this Directive would entail greater attention and improvement in existing working procedures and operations on the part of WSC as well as the implementation of preventive and corrective measures to ensure compliance.

Reform & Implementation

Proposals for reform Most of the obligations imposed are administrative in nature with some financial implications. Such obligations would entail where applicable the establishment of a safety and health plan, the appointment of a Health and Safety co-ordinator, record keeping, organisational matters and security issues on a construction site.

Negotiating Position

Proposals for negotiating position to be adopted Implementation should be achieved without difficulty by the target date of 1st January 2003 and therefore no requests for transitional periods or special arrangements ought to be made.

8. Council Directive on the minimum requirements for the provision of safety and/or health signs at work**EU Position**

Council Directive 92/58/EEC The objective of this Directive is to introduce a Community system of safety signs designed to reduce the risk of accidents at work and occupational diseases.

In terms of this Directive, employers are obliged to provide signs where hazards cannot be avoided or adequately reduced by preventive measures. These health and/or safety signs must fulfil the minimum requirements set out in the Annexes to the Directive.

As in the case of the other Directives, workers must be informed of the measures to be taken and must be given appropriate training (precise instructions). Furthermore, workers must be consulted and allowed to participate on the matters covered by the Directive.

WSC Position

WSC's present position This Directive is of direct relevance to WSC particularly Annex III of the Directive which establishes minimum requirements governing signs on containers and pipes.

As indicated by WSC officers, WSC is not presently in full compliance with the provisions of this Directive particularly owing to the incorrect positioning of signs, their poor state of repair and a number of other defaults on the part of WSC in so far as these health and/or safety signs are concerned.

Reform & Implementation

Proposals for reform

The main impact of this Directive on WSC can be identified as being one of a financial nature. This is so owing to the fact that WSC would have to comply with the provisions of this directive in so far as the procurement as well as improvement and maintenance of such health and/or safety signs is concerned. Furthermore, the effective implementation of the Directive also entails an efficient administrative procedure and the training and consultation of workers.

The exact costs of such an exercise can be established through an exercise conducted by the WSC H&S officer. However, these costs are unlikely to be exorbitant.

Negotiating Position

Proposals for negotiating position to be adopted

No difficulty in alignment by 1st January 2003 and therefore no requests for transitional periods or special arrangements ought to be made.

9. Council Directive on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding

EU Position

Council Directive 92/85/EEC

The objective of this Directive is to take minimum measures to protect the health and safety of pregnant workers, womenworkers who have recently given birth and women who are breastfeeding, considering them to be a specific risk group.

It might be apt to point out that most of the obligations found in the Directive are addressed to Member States rather than to employers. Nonetheless, once the Member States' obligations are transposed into national law, this would obviously have a direct impact on employers. These obligations are various as indicated in our previous report, ranging from a prohibition to impose nighttime work on employees covered by the directive to protection of employment rights of such workers.

In addition to these obligations, the Directive also provides that in consultation with the Member States and assisted by the Advisory Committee on Safety, Hygiene and Health Protection at Work, the Commission is to draw up guidelines on the assessment of the chemical, physical and biological agents and industrial processes considered dangerous for the health and safety of the relevant workers, to include physical

movements and postures, mental and physical fatigue and other types of physical and mental stress. For all activities liable to involve a risk (particularly those alluded to in Annex I to the Directive), the employer or the health and safety service must determine the nature, degree and duration of exposure in order to evaluate the risks and decide what measures should be taken. Workers are to be notified of the results and of measures involving health and safety at work.

Exposure of the workers in question to the above mentioned risks is to be avoided by provisionally adjusting their working conditions or their working hours. Where such adjustment is not technically and/or objectively feasible, or cannot reasonably be required on duly substantiated grounds, the employer shall take the necessary measures to move the worker concerned to another job. Where transfer to another activity is not feasible, the workers in question must be granted leave for the whole of the period considered necessary to protect their safety and health.

Furthermore, pregnant workers may under no circumstances be obliged to perform duties for which the assessment has revealed a risk of exposure to the agents and working conditions listed in Annex II, Section A, and, in the case of workers who are breastfeeding, to the agents and working conditions listed in Annex II, Section B of the Directive.

WSC Position

WSC's present position

In accordance with information provided by WSC's officers, WSC would have no serious problems in complying with this Directive as it is already in compliance with national legislation dealing with the matter. Nonetheless, a number of administrative actions on the part of WSC would be necessary, once the Directive is incorporated into national law.

Reform & Implementation

Proposals for reform

As already alluded to above, this Directive imposes obligations on Member States rather than directly on employers. This essentially means that obligations for WSC would arise only once these State obligations are acted upon by the Maltese government and the conditions of employment established in the Directive are incorporated and become part and parcel of national law, namely through an amendment of the Conditions of Employment Regulations ACT (CERA) and of the Industrial Relations ACT or by other legal instrument.

Negotiating Position

Proposals for

No requests for transitional periods or special arrangements

negotiating position to be adopted ought to be made.

10. Council Directive on the protection of young people at work

EU Position

Council Directive 94/33/EC

The objective of this Directive is to adopt minimum requirements aimed in particular at improving working conditions, guaranteeing workers better health and safety protection. However, in actual fact the Directive's main objective is to prohibit the employment of children.

The Directive imposes two cardinal duties on Member States, namely, that:

- the minimum working age cannot be lower than 15 years, and
- ensuring that employers guarantee that young people (a person under 18 years of age) have working conditions which suit their age.

However, the Directive also includes provisions relating to:

- the employer's general obligations, such as protection of the health and safety of young people, assessment of the risks to young people associated with their work, assessment and monitoring of the health of young people, information about young people and children's legal representatives on the possible risks to their health and safety;
- types of employment which must not be carried out by young people, such as work which exceeds the mental or physical capacities of young people, work involving harmful exposure to dangerous substances.

WSC Position

WSC's present position

The obligations arising out of this Directive entail no specific problems for WSC as WSC is already in full compliance with national legislation regulating the matter.

Reform & Implementation

Proposals for reform

As in the case of the previous Directive, this Directive imposes obligations on Member States rather than directly on employers. This essentially means that obligations for WSC would arise only once these State obligations are acted upon

by the Maltese government and the conditions of employment established in the Directive are incorporated and become part and parcel of national law, namely through an amendment of the Conditions of Employment Regulations ACT (CERA) and of the Industrial Relations ACT.

Negotiating Position

Proposals for negotiating position to be adopted No request for transitional periods or special arrangements ought to be made.

11. Council Directive on the protection of workers from the risks related to exposure to noise at work

EU Position

Council Directive 86/188/EEC The objective of this Directive is to reduce exposure to noise in order to lessen the risk of hearing loss, to reduce noise levels preferably at source, and to provide for the provision and use of personal ear protectors.

In terms of this Directive, employers are obliged to assess and measure the noise experienced at work, at suitable intervals. This so in order to determine whether maximum decibel (dB) levels have been exceeded and whether workers have been affected. Annex I gives indications for measurement. On the basis of the results of the assessment made, a number of appropriate measures have to be adopted by the employer, as alluded to in our previous report.

WSC Position

WSC's present position In accordance with information provided by WSC officers, there are a number of premises where the noise limits indicated by the Directive may be exceeded. The sites indicated include the following:

- reverse osmosis plants
- trenching sites
- the office housing the billing printing machine at Luqa head office.

Reform & Implementation

Proposals for reform A proper assessment of the exposure of workers to noise at all the sites administered by WSC has to be carried in order to ensure that the limits imposed by the Directive are not exceeded.

Obviously, corrective and preventive measures where such limits are found to be exceeded have to be implemented by WSC. This is particularly so in so far as medical tests on the hearing of workers as well as the provision of information to and training of workers is concerned.

In cases where limits are exceeded, a plan for remedial action must be drawn up along with the ancillary costings and strategy for implementation.

Negotiating Position

Proposals for negotiating position to be adopted

WSC may wish to reserve its position on this matter until the necessary assessment on noise levels is conducted, particularly on sights where sound limits are likely to be excessive and where remedial action is likely to be very costly.

12. Council Directive on the protection of workers from the risks related to exposure to carcinogens at work

EU Position

Council Directive 90/394/EEC as amended by Council Directive 97/42/EC and Council Directive 1999/38/EC

The objective of this Directive is to lay down minimum requirements for protecting workers against risks arising specifically from exposure to carcinogens and mutagens, to lessen exposure with a view to reducing health risks, to establish exposure limit values and to take preventive measures.

In virtue of this Directive, employers are obliged to adopt a number of measures namely :

- the reduction and the replacement of the carcinogen in question in so far as possible;
- prevention and reduction of exposure by ensuring the manufacture of the chemical in a closed system as much as possible;
- inform the competent authority as to the reasons for using carcinogens, preventive measures taken and the number of workers exposed;
- inform, consult and train workers and provide them with protective clothing and individual respiratory protection equipment;
- restrict access to risk areas;
- keep an updated list of exposed workers as well as

individual medical records for a period of at least 40 years following the end of exposure.

WSC Position

WSC's present position

The directive in Annex I makes a specific reference to 4 processes which are specifically considered to be carcinogens. These processes are not carried out by WSC which would at face-value make the provisions of Council Directive 90/394/EEC inapplicable to WSC.

Nevertheless, it is important to note that this list is by no means exhaustive and in fact, in its definition of the term "carcinogen" a cross-reference is made by Council Directive 90/394/EEC to two other Directives, namely, Directive 67/548/EEC and Directive 88/379/EEC. This essentially means that a substance or preparation which meets the classification criteria set out in the three Directives is to be considered a carcinogen.

Reform & Implementation

Proposals for reform

WSC is primarily to determine whether its employees are subject to any of the hazards alluded to above. To this effect a detailed risk assessment is to be carried out in accordance with the outcome of which WSC is to adopt the necessary preventive and corrective measures.

Negotiating Position

Proposals for negotiating position to be adopted

Clearly, if any such risk is established, remedial action – quite independently of costs – would need to be taken. For this reason, it is proposed that implementation of this directive should be achieved on time without any need for requests for transitional periods.

13. Council Directive on the protection of the health and safety of workers from the risks related to chemical agents at work

EU Position

Council Directive 98/24/EC

The objective of this Directive is to lay down minimum requirements for the the protection of workers from risks to their safety and health arising, or likely to arise, from the effects of chemical agents that are present at the workplace or as a result of any work activity involving chemical agents.

In terms of this Directive, the employer is primarily obliged to determine whether any hazardous chemical agent (as defined in the Directive) is present at the workplace and assess any risk to the safety and health arising from their presence, taking

into consideration a number of factors (as identified in our previous report). Hence, the employer must be in possession of an assessment of the risk, which assessment must be kept up-to-date, particularly if there have been significant changes or if the results of health surveillance show it to be necessary.

The employer is obliged, in terms of the Directive to adopt the necessary preventive measures as well as a number of specific protection and monitoring measures if the assessment carried out by the employer reveals a risk to the safety and health of workers. Furthermore, on the basis of the assessment carried out, the employer is also obliged to take a number of technical and/or organisational measures.

The employer is also obliged to establish action plans which can be implemented in the event of an accident, incident or emergency related to the presence of hazardous chemical agents at the workplace. Where one of these events occurs, the employer must take appropriate remedial action as soon as possible and inform the workers concerned. The Directive also imposes a general obligation on employers to inform workers about the identity of the chemical agents, give them appropriate training on the precautions and actions to be taken to safeguard themselves and other workers at the workplace as well as inform them about any risks arising from these agents.

WSC Position

WSC's present position

WSC officers have identified a number of activities practiced by WSC employees and which could give rise to occupational hazards as highlighted by Council Directive 98/24/EC. Such activities include the following agents:

- welding fumes generated at workshops;
- chlorine handling
- the handling of a variety of chemicals in the laboratory
- the use of lubricating oil and grease at workshops
- acid dosing at reverse osmosis plants.

Reform & Implementation

Proposals for reform

Primarily, in order to establish whether the use and handling of such chemical agents as well as of a number of other hazardous substances is in conformity with Council Directive 98/24, a comprehensive risk assessment of all WSC's activities is to be carried out. This would obviously entail an amount of both financial and human resource input. On the basis of these risk assessments, a number of preventive and corrective measures which are in line with Council Directive

98/24/EC may be necessary on the part of WSC in order to be in compliance with the above-mentioned Directive.

Negotiating Position

Proposals for negotiating position to be adopted

Again, if any such risk is established, remedial action – quite independently of costs – would need to be taken. For this reason, it is proposed that implementation of this directive should be achieved on time without any need for requests for transitional periods.

14. Council Directive on the protection of workers by the banning of certain specified agents and/or certain work activities

EU Position

Council Directive 88/364/EEC

The objective of this Directive is the uniform application of common principles concerning the health protection of workers: to prevent exposure to health risks or maintain exposure at as low a level as is reasonably practicable and, if adequate protection cannot be ensured by any other means, to ban agents or activities which can give rise to serious effects on health as well as to encourage the early development of alternative non-dangerous agents.

The Directive imposes obligations directly on Member States and indirectly on employers. In fact, the main aim of the directive is to ban the production and use of four aromatic amines in accordance with the Annex, subject to the possibility of the employer of obtaining a derogation from the particular Member State, in certain specified cases.

WSC Position

WSC's present position

This Directive does not seem to apply to WSC since in its operations WSC excludes the use of the chemicals referred to in the Directive's annex.

Reform & Implementation

Proposals for reform

A review of operations and a risk assessment is nonetheless to be carried out by WSC in order to ascertain the total exclusion of the use of such agents.

Negotiating Position

Proposals for negotiating position to be adopted

Again, if any such risk is established, remedial action – quite independently of costs – would need to be taken. For this reason, it is proposed that implementation of this directive should be achieved on time without any need for requests for

transitional periods.

15. Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances

EU Position

*Council
Directive
96/82/EC*

The objective of this Directive is the prevention of major accidents which involve dangerous substances, and the limitation of their consequences for man and the environment, with a view to ensuring high levels of protection throughout the Community in a consistent and effective manner.

This Directive applies precisely to establishments where dangerous substances are present in quantities equal to or in excess of the quantities listed in Annex I to the Directive.

A number of obligations geared to prevent the occurrence of a "major accident" as defined in the Directive as well as to remedy such an eventuality are imposed on both Member States as well as indirectly on employers or operators of establishments.

WSC Position

*WSC's
present
position*

According to information provided by WSC's officers, the Directive is of particular import to WSC at least in so far as four particular substances are concerned, namely:

- chlorine
- formaldehyde
- sulphuric acid
- acetylene.

These are four substances which are stored by WSC and which are alluded to in Annex I to Council Directive 96/82/EC. This essentially means that at least in so far as these substances are concerned, WSC is to ensure compliance with Directive at all times.

Reform & Implementation

*Proposals for
reform*

A preliminary assessment of storage capacities at particular sites, namely, reverse osmosis plants, chlorine stores, sulphuric acid tanks and stores is necessary in order to establish the applicability or otherwise of this Directive at each site. Following such review, a detailed risk assessment of those sites where this Directive is deemed to be applicable is necessary. Obviously, this could entail a significant financial input as well as the input of external technical expertise.

In the eventuality of the applicability of this Directive, WSC would have to abide by a number of obligations imposed by this same Directive. This would essentially entail the following:

- the adoption of a number of preventive measures which are established by the national government in conformity with the Directive;
- an obligation to notify and inform;
- the drawing up of a major-accident prevention policy and the ensurance of its implementation;
- the production of safety reports;
- the modification of installations and review of major accident prevention policy and management systems;
- the setting up of emergency plans;
- the obligation to supply the relevant competent national authority with information in the case of the actual occurrence of an accident.

Negotiating Position

*Proposals for
negotiating
position to be
adopted*

Again, if any such risk is established, remedial action – quite independently of costs – would need to be taken. For this reason, its is proposed that implementation of this directive should be achieved on time without any need for requests for transitional periods.