

HILLMAN

COMMISSION OF THE EUROPEAN COMMUNITIES

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PROPOSAL FOR A COUNCIL DIRECTIVE
ON THE APPROXIMATION OF THE LAWS OF THE MEMBER STATES
RELATING TO ARTICLES OF
PRECIOUS METALS

(submitted to the Council by the Commission)

COM(75) 607 final.

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EXPLANATORY MEMORANDUMI. General

1. A comparative examination of the laws, regulations and administrative provisions in force in the Member States relating to articles of precious metals has revealed considerable differences not only between the provisions on legal standards of fineness, tolerances and inspection and testing methods but also between hallmarking systems themselves, which range from compulsory state guarantees to guarantees by the manufacturer himself.
2. Because of this situation, manufacturers of articles of precious metals are obliged to adapt their production and their collections of articles to the varying technical requirements laid down in the laws of the Member States for which these articles are intended.
3. Under one hallmarking system, articles of precious metals must, before being placed on the market, be submitted to an assay office; under another system, they must be imported by an agent who has been issued with the national identification hallmark. In both cases articles of precious metals coming from other Member States must undergo additional hallmarking.

In one Member State, dues must be paid to obtain the state guarantee for articles of precious metals.

4. The national laws in force are, however, justified in that Member States are responsible for consumer protection. Consequently the approximation of these laws, in particular as regards the range of standards of fineness for precious metal alloys that can be placed on the market, appears to be the best way of eliminating the harmful effects of the differences noted.

5. Precious metals are included in the second stage of the "General Programme for the elimination of technical barriers to trade which result from disparities between the provisions laid down by law, regulation or administrative action in the Member States" which was approved by the Council on 28 May 1969.

In its Resolution of 17 December 1973 on industrial policy, the Council reminded the Commission that priority should be given to this sector and requested it to forward by 1 January 1976 a proposal for a directive on articles of precious metals so that it might be adopted by 1 January 1977.

6. The purpose of this Directive, therefore, is to remove existing technical barriers to trade by approximating the laws. Its legal basis is Article 100 of the Treaty.

7. The Commission has set up a Working Party of experts, representatives of trade associations for the manufacturing, wholesale and retail sectors and representatives of consumers so as to obtain technical guidance.

II. Harmonization method

The harmonization method on which this Directive is based is the "optional" method.

It allows free movements of articles of precious metals complying with the specifications of the Directive without obliging Member States to give up their existing systems and standards of fineness, some of which are based on long tradition.

III. Comments on the proposal for a directive

This proposal reflects the outcome of numerous discussions, meetings and consultations which the Commission staff responsible have had with experts and various circles concerned over several years.

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The following main points have been discussed at these meetings and a number of differences have emerged.

The first important point is the choice of the standards of fineness acceptable for free movement. The Directive lays down two standards of fineness for gold, two for silver and one for platinum. It selects the most widely used standards in the Community and even in the world as a whole. It is not in conflict with the EFTA convention on the control and marking of articles of precious metals. However, in several Member States laws differ on this point and several experts fear that the introduction of new standards of fineness could create disturbances on their national markets.

The second and more difficult problem concerns the state guarantee system recommended by the Directive : Community hallmark applied by the services of one of the Member States with reciprocal recognition of inspections. Any article of precious metals bearing this hallmark will be regarded as complying with the specifications of the Directive and will have to be accepted on national markets under the same conditions as articles of precious metals complying with existing national laws. (As already stated, the Directive is based on the "optional" harmonization system and in the Commission's view there is no question of considering the Community hallmark as a European quality mark).

This state hallmarking system which is in force in many Member States was however, strongly opposed by some Community experts, both at meetings and in direct contacts with the Commission departments responsible. They have a strong preference for the system in force in their own country where there is an indirect state guarantee : the manufacturer or importer applies to articles of precious metals the hallmark supplied to him by the State department. The trade and industrial circles concerned in this country fear that the introduction of direct state hallmarking on some articles would detract from the value of the hallmark applied by the manufacturer and that even if that guarantee were only optional it would undermine the system currently in force because in their opinion those having the benefit of the Community hallmark would present it as a quality mark.

The experts of one country, which is the largest producer and exporter in the Community, fear that they will be flooded with articles to be hallmarked, so that the guarantee given by the hallmark would not be very effective.

The Commission supported by the experts consulted was unable to agree to the system of indirect state hallmarking, which raises very complex organizational problems at Community level and which many experts consider inadequate.

The same applied to the consumer representatives.

The other new features in the Community Directive do not give rise to such serious difficulties.

To ensure that the Community guarantee system is practicable, it was necessary to introduce suitable hallmarks of guarantee for the three precious metals and their various standards of fineness. Annex II of the Directive describes the hallmarks, but their components and dimensions will be decided when the Directive is adopted so as to ensure that secrecy is preserved.

This Annex also contains provisions regarding the manufacture, distribution and surveillance of the Community dies. At the request of the experts, the Commission has undertaken to have the hallmarks registered for the Member States with the World Industrial Property Organization (WIPO), an arrangement similar to that in the EFTA Convention.

Each Member State is free to designate assay offices of its choice. However, the designated offices, will alone be entitled, at the request of a manufacturer or importer, to apply the Community hallmark to articles of precious metals meeting the requirements of this Directive.

The Community hallmark of guarantee is recognized by all the Member States.

Annex III/B contains a list of the most common methods of determining standards of fineness and these should preferably be used by the assay offices. However, in the event of disputes, only the analytical results obtained by using the methods referred to in Article 5 paragraph 2, the mode of operation for which is to be determined by the Committee procedure, shall be regarded as authentic.

In order to ensure flexible and rapid adjustment to technical progress of the Annexes to this Directive and if necessary determination of the method of taking samples and methods of establishing the standard of fineness, it is proposed that the Committee procedure be adopted.

IV. Consultation of the European Parliament and the Economic and Social Committee

Pursuant to the second paragraph of Article 100 of the Treaty, the opinions of these two bodies are necessary as the implementation of the provisions of the Directive will involve the amendment of legislation in all Member States.

This is a list for information of Assay Offices which might be notified by the Member States in accordance with Article 4 of the Directive

<u>Country</u>	<u>Authorized bodies</u>	<u>Identifying symbol</u>
Belgium	Monnaie Royale de Belgique rue Hôtel des Monnaies, 95 1060 - BRUXELLES	
	Koninklijke Munt van België Munthofstraat, 95 1060 - BRUSSEL	B 1
Denmark	Statens Kontrol Med Aedle Metaller Gothersgade 14 I 1123 - KØBENHAVN	DK
France	Bureau de Garantie Hôtel des Impôts du Maine Landon rue de la Combe 16800 - SOYAUX (Angoulême)	F 1
	Bureau de Garantie Gare routière - ANNEMASSE	F 2
	Bureau de Garantie Avenue Charles Siffert 17 - BESANCON	F 3
	Bureau de Garantie rue Molière 55/57 - LYON 6ème	F 4
	Bureau de Garantie avenue du Général Leclerc 3 13331 - MARSEILLE (Cedex 3)	F 5
	Bureau de Garantie rue Berlioz, 41 - NICE	F 6

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<u>Country</u>	<u>Authorized bodies</u>	<u>Identifying Symbol</u>
France (cont.)	Bureau de garantie rue Perrée, 14 75003 -- PARIS	F 7
	Bureau de garantie avenue de la Liberté, 11 B.P. 1010 -- STRASBOURG	F 8
	Bureau de garantie rue des Moulins, 58 -- VALENCE	F 9
Ireland	Braithreachtas na Cuidreachta Gaibhne Oir Baile Atha Cliath (The Fraternity or Company of Goldsmiths of the City of Dublin) An Oifig Mheasunaithe, (the Assay Office) An Caislean (the Castle) BAILE ATHA CLIATH 2 (Dublin 2)	IR 1
Netherlands	Kantoor van de Waarborg Oost-Indisch Huis Kloveniersburgwal 48 AMSTERDAM	NL 1
	Kantoor van de Waarborg Korte Beestenmarkt 1 'S GRAVENHAGE	NL 2
	Kantoor van de Waarborg Comm. de Guarylaan 2 c 'S HERTOGENBOSCH	NL 3
	Kantoor van de Waarborg Oosterkaade 20 c LEEUEWARDEN	NL 4
	Kantoor van de Waarborg Willem Buyteweekestraat ROTTERDAM	NL 5
	Kantoor van de Waarborg Doelenplein 1 SCHOONHOVEN	NL 6
	Kantoor van de Waarborg Steynstraat 3 UTRECHT	NL 7

<u>Country</u>	<u>Authorized bodies</u>	<u>Identifying symbol</u>
United Kingdom	The Assay Office Newhall Street BIRMINGHAM 3	UK 1
	The Assay Office Queen Street 15 EDINBURGH	UK 2
	The Assay Office Goldsmiths 'Hall Gutter Lane LONDON EC 2V 8 AQ	UK 3
	The Assay Office Porto Bello Street 134 SHEFFIELD 1	UK 4

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PROPOSAL FOR A COUNCIL DIRECTIVE
on the approximation of the laws of the Member States
relating to articles of
PRECIOUS METALS

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas in the Member States the system for hallmarking articles of precious metals, the ranges of permissible standards of fineness and inspection procedures for these articles are laid down by law; whereas the provisions in question differ from one Member State to another not only as regards the technical requirements but also as regards the hallmarking system itself; whereas because of their disparity they hinder trade and may create unequal conditions of competition within the European Economic Community;

Whereas these hindrances to the establishment and functioning of the common market can be reduced and eliminated if the same requirements and the same hallmarking system are applicable in each of the Member States, at least in addition to their existing laws;

Whereas control of articles of precious metals is necessary to protect consumers; whereas existing hallmarking systems, standards of fineness for alloys, inspection and assay methods differ from one Member State to another; whereas to secure free movement of articles of precious metals within the common market and obviate repeated inspections, tests and hallmarking, which are in themselves barriers to the free movement of articles of precious metals,

it is necessary to make provision for mutual recognition by the Member States of the inspection, assay, guarantee and hallmarking operations;

Whereas to facilitate this mutual recognition it is advisable to establish a Community guarantee for articles of precious metals, to introduce a series of Community standards of fineness for alloys of precious metals and to lay down the relevant Community hallmarks;

Whereas it is for the Member States to designate bodies to carry out the inspections, tests and Community hallmarking operations;

Whereas it is advisable for the Commission to have the Community hallmarks registered, on behalf of the Member States, with the World Industrial Property Organization (WIPO);

Whereas technical progress requires prompt adjustment of the technical requirements laid down in the Directive; whereas in order to facilitate implementation of the measures required for this purpose a procedure should be laid down for establishing close cooperation between the Member States and the Commission within a Committee on the Adjustment to Technical Progress of the Directives on the Removal of Technical Barriers to Trade in Article of Precious Metals;

HAS ADOPTED THIS DIRECTIVE :

Article 1

1. For the purposes of this Directive, precious metals mean platinum, gold and silver and also the alloys of these metals.
2. For the purposes of this Directive, articles of precious metals mean all objects of jewellery, industrial jewellery, goldsmith's and clockmaker's articles and also all objects other than those mentioned in Article 2 - whether of craft or industrial workmanship - made from the metals or metallic alloys referred to in paragraph 1 of this Article.

Article 2

The following are excluded from the scope of this Directive :

1. Articles made up from alloys of which the content of precious metal is lower than the minimum standards of fineness specified in Annex I to this Directive;
2. Preparations, materials and compounds for use in the making up or repair of works in platinum, gold or silver;
3. Articles in an uncompleted state requiring the addition of their precious metal parts;
4. Articles for use in dental work or for medical use;
5. Articles, instruments or appliances for scientific use in laboratories or in industrial processes;
6. Coins in or having been in current circulation;
7. Touch needles;
8. HOLLOWED articles of precious metals, packed with a filling substance, whatever their character or purpose, with the exception of articles for which a filling substance is admissible in accordance with Annex IV to this Directive.

Article 3

1. The Member States shall take all necessary measures to ensure that only articles of precious metals fulfilling the requirements of this Directive and its Annexes are stamped with the Community hallmark described in Annex II.
2. Articles of precious metals may be issued with the Community hallmark of guarantee only if they meet the fineness standards laid down in Annex I to this Directive.

3. When the established fineness standard of articles of precious metals lies between two specified fineness standards, the articles shall be hallmarked as of the lower fineness standard and when the established fineness standard of articles lies above the highest of the specified fineness standard the articles shall be hallmarked as of the highest fineness standard.
4. Should an article of precious metals not reach the lowest specified Community fineness standard, bearing in mind the tolerances for testing laid down in Annex III/A, the Community guarantee shall be refused. The reason for refusal shall be notified to the applicant.
5. Articles of precious metals shall be submitted to the Community assay offices notified by the Member States in accordance with Article 4(1) and (2) at a stage which permits of proper assay and hallmarking.
6. Articles of precious metals shall bear the mark of the manufacturer, craftsman or importer before being hallmarked by a Community assay office.
7. Member States shall take all the necessary measures to ensure that the marks of manufacturers, craftsmen or importers referred to in paragraph 6 are recorded in a suitable register.

Article 4

1. Each Member State shall provide the other Member States and the Commission with a list of the Community assay offices and details of any amendments made to the list.
 2. Only the Community assay offices may grant the Community guarantee for articles of precious metals presented to them in accordance with the requirements specified in this Directive and its Annexes.
- ...

3. At the request of a manufacturer or his authorized representative established within the Community these offices shall apply the Community hallmark to articles of precious metals conforming to the requirements of this Directive and its Annexes, in so far as the testing and inspection equipment at their disposal makes it possible to do so.

Article 5

1. When assaying articles of precious metals presented for Community hall-marking, the assay offices shall take into account the methods of determining the fineness standard laid down in Annex III/B.
2. In the event of dispute, the fineness standards of articles of precious metals shall be determined by the following methods :
 - gold : determination of gold in gold alloys by the cupellation method
 - silver : determination of silver in silver alloys by the Gay-Lussac method
 - platinum : gravimetric determination of platinum (ammonium chloroplatinate).

Article 6

1. No Member State may refuse, prohibit or restrict the placing on the market or the free movement of articles of precious metals bearing the Community hallmark of guarantee in accordance with the requirements of this Directive and its Annexes. Such articles shall not be required to undergo further hall-marking in the countries of destination nor be liable to special charges.

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2. The Community hallmark of guarantee shall have the same legal status in each Member State as that of the corresponding hallmarks in use on its territory.

Article 7

The Member States shall take all necessary measures to ensure that articles of precious metals or of metals do not bear any sign, mark, inscription or hallmark which might be confused with the Community hallmark of guarantee.

Article 8

The Commission undertakes on behalf of the Member States to register the Community hallmark as a national hallmark with the World Intellectual Property Organization (WIPO), in accordance with the Convention of Paris for the Protection of Industrial Property.

Article 9

1. Any amendments necessary in order to adapt Annexes II, III and IV to this Directive to take account of technical progress shall be adopted in accordance with the procedure laid down in Article 11.
2. The procedure in Article 11 shall also be used to lay down detailed operating procedures for the methods of fineness determination referred to in Article 5 (2) and, where necessary, to establish sampling methods and to lay down detailed operating procedures for the methods set out in Annex III/B.

Article 10

1. There is hereby set up a Committee (hereinafter called "the Committee") on the Adjustment to Technical Progress of the Directives on the Removal of Technical Barriers to Trade in Articles of Precious Metals. It shall consist of representatives of the Member States with a representative of the Commission as Chairman.
2. The Committee shall adopt its own rules of procedure.

Article 11

1. Where the procedure laid down in this Article is to be followed, matters shall be referred to the Committee by the Chairman, either on his own initiative or at the request of the representative of a Member State.
2. The representative of the Commission shall submit to the Committee a draft of the measures to be adopted. The Committee shall deliver its Opinion on the draft within a time limit set by the Chairman having regard to the urgency of the matter. Opinions shall be adopted by a majority of forty-one votes, the votes of Member States being weighted as provided in Article 148 (2) of the Treaty. ~~The Chairman shall not vote.~~
3. a) The Commission shall adopt the measures envisaged where they are in accordance with the Opinion of the Committee;
b) Where the measures envisaged are not in accordance with the Opinion of the Committee, or if no Opinion is adopted, the Commission shall without delay propose to the Council ~~the~~ measures to be adopted.
The Council shall act by a qualified majority;
c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 12

1. Member States shall put into force the laws, regulations and administrative provisions needed in order to ~~comply~~ with this Directive within eighteen months of its notification and ~~shall~~ forthwith inform the Commission thereof.
2. Member States shall communicate to the Commission the text of ~~the~~ provisions of national law which they adopt in the field covered by this Directive.

Article 13

This Directive is addressed to the Member States.

A N N E X I

FINENESS STANDARDS FOR ARTICLES OF PRECIOUS METALS

<u>Metal</u>	<u>Fineness Standards</u> <u>in parts per thousand</u>	
Gold	1)	750
	2)	585
Silver	1)	925
	2)	800
Platinum		950*

*) Permissible iridium content 5%.

A N N E X I I

COMMUNITY HALLMARK OF GUARANTEE FOR ARTICLES OF PRECIOUS METALS

1. Examples of hallmark

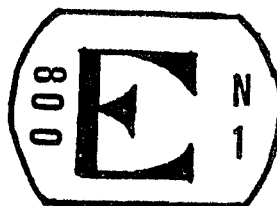
Platinum



Gold



Silver



2. Dimensions

Four different sizes are specified for the hallmarks referred to in point 1, and are as follows :

- | | | |
|-----------------------|---|-----------------------------------------------------------------------------------------------------------------------------|
| a) 3/8 = 1.2 x 0.9 mm | { | These dimensions are the maximum heights and widths based on a rectangular axis measurement of the contour of the hallmark. |
| b) 1/2 = 1.6 x 1.2 mm | | |
| c) 3/4 = 2.4 x 1.8 mm | | |
| d) 1 = 3.2 x 2.4 mm | | |

Explanatory note

- a) The smallest sizes for small articles such as rings, pendants, etc.; and b)
- c) The medium size for articles such as teaspoons, etc.;
- d) The largest size for large articles such as spoons, forks, trays, tea-pots, coffee-pots, dinner services, etc.

3. Description of hallmark

- a) The right side of the hallmark bears the distinguishing symbol of the assay office.
- b) The left side of the hallmark bears the standard of fineness in parts per thousand of precious metal in the alloy, in accordance with Annex I.
- c) The middle of the hallmark bears the symbol E.

The exact dimensions of the letters and numbers will be decided when the Directive is adopted.

4. Prevention of forgeries

In order to distinguish the genuine mark from a forgery a special secret mark of a smaller size, recognizable only by authorized and informed persons, shall be incorporated in the hallmarks shown in point 1.

These special marks shall be interchanged between the Member States at the time of registration of the hallmarks and kept secret.

The competent authorities of the Member States shall take all the necessary measures to ensure that only authorized persons, responsible for the assay of articles of precious metals, are informed of them.

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5. Manufacture and distribution of dies

a) Manufacture

1. The basic tools used for the Community hallmark shall be manufactured by a central body to be designated by the Council when the Directive is adopted.
2. The central body shall manufacture standard dies with the basic tools.
3. The standard dies shall be used to manufacture replicas (national dies).
These replicas shall be made available to the central institution which has to be notified to the central body referred to in point 1 by each Member State that designates Community assay offices.
4. The central institution in each Member State - preferably a mint - shall be sent and shall keep the replicas. From the replicas it shall manufacture the service dies which it shall make available to the Community assay office(s) designated by the Member State concerned.

b) Distribution and registration of dies

The central body which holds the dies and manufactures the national dies, the various official money-minting centres which receive the national dies and manufacture and supply the service dies and the assay offices which receive and use the service dies shall keep a register of dies received, dies manufactured and dies received for use, with details of the consignor; entries shall be made in several copies, sufficient space being allowed for delivery and acceptance declarations. Service dies withdrawn from use shall be returned at regular intervals to the national centre which shall strike them off the register.

The receipt of returned dies and their deletion from the register shall be recorded by means of declarations on the consignment notes (see attached example).

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6. Hallmarking of articles of precious metals

- a) The hallmark shall be applied to the most prominent and most representative part of an article preferably beside or near the craftsman's, manufacturer's or importer's mark.
- b) The hallmark shall be struck with the die listed under 2 that is of a size most suited to the article.
- c) Articles consisting of a number of loose parts shall be hallmarked on each of the parts.

"Loose parts" means parts which are not attached by soldering to the main article (e.g., teapot lids, the two halves of powder boxes and cigarette cases).

The following are exceptions :

- 1) articles consisting of links provided with an end eyelet and spring ring soldered to the article (e.g. necklaces, bracelets, etc.);
- 2) articles of filigree work of precious metal wire.

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SPECIMEN DECLARATIONS

Delivered to the assay office at

 (number of) dies to the above specifications.

(place), date

Supply authority

Received from
 (supply authority)

at (number of) dies to the above
 specifications.

(place), date

Receiving assay office

Returned to
 (initial supply authority)

..... (number of) dies withdrawn from use.

(place), date

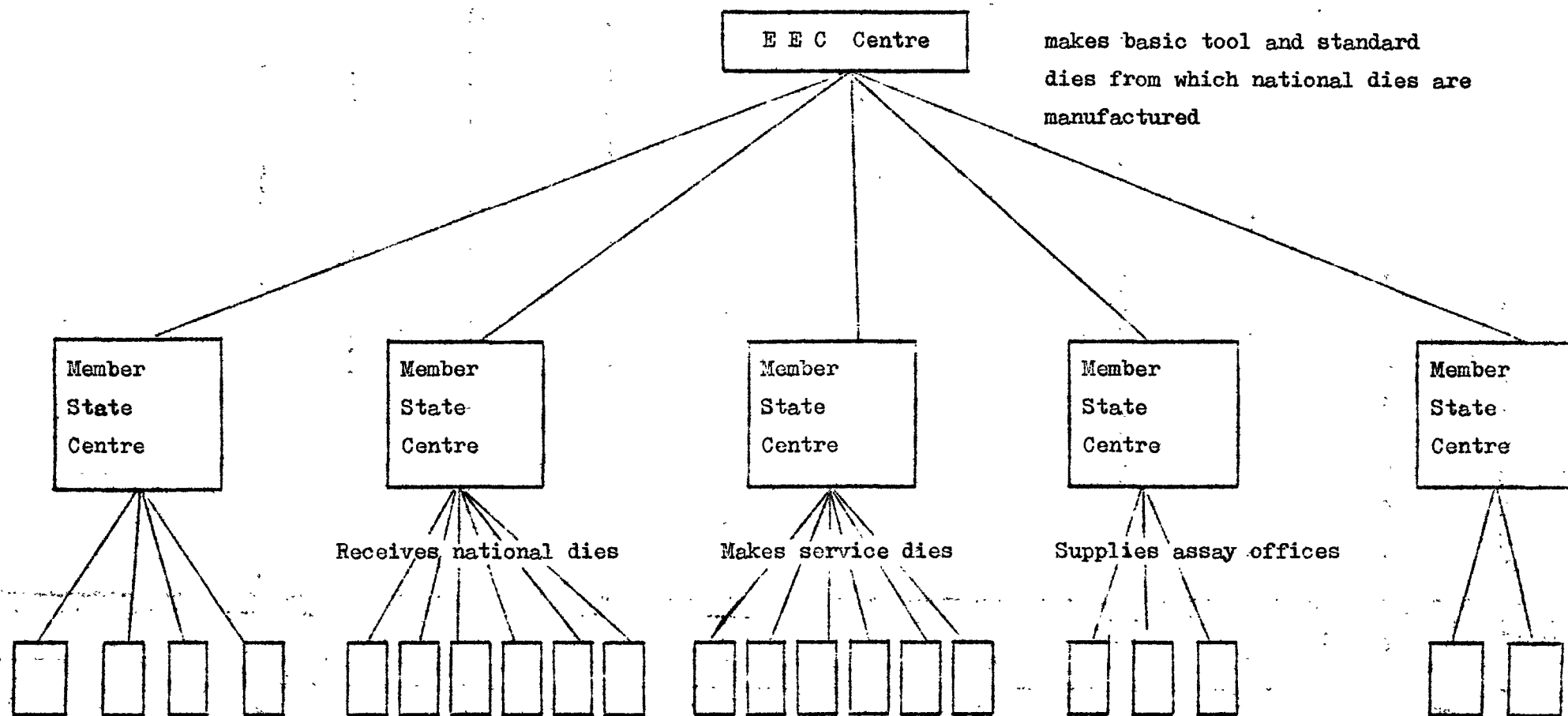
Returning assay office

Received from the assay office at
 (number of) dies withdrawn from use and deleted
 from the register.

(place), date

Initial supply authority

Plan for the manufacture and distribution of Community hallmark dies



The assay offices receive service dies

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A N N E X I I I

A. PERMISSIBLE ASSAY TOLERANCES.

B. LIST OF METHODS FOR DETERMINING THE STANDARD OF FINENESS OF ARTICLES IN
PLATINUM, GOLD AND SILVER.

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A. PERMISSIBLE ASSAY TOLERANCES

Platinum : 10 parts per thousand
Gold : 3 parts per thousand
Silver : 5 parts per thousand.

B. METHODS OF DETERMINING THE STANDARD OF FINENESS OF ARTICLES IN PLATINUM, GOLD AND SILVER

- I. Determination of platinum in platinum alloys :
- a) By method of gravimetric determination (ammonium chloroplatinate)
 - b) By the cupellation method
 - c) By atomic absorption.
- II. Determination of gold in gold alloys :
- a) By the cupellation method
 - b) By titrimetric analysis
(after Sk. Chriskov and Us. Romanova).
- III. Determination of silver in silver alloys :
- a) By the Gay-Lussac method
 - b) By the Volhard method.
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ANNEX IV

SPECIAL TECHNICAL CASES RELATING TO THE GUARANTEEING AND HALLMARKING OF
ARTICLES OF PRECIOUS METALS

1. Fixing of articles of precious metals

- (a) Non-metallic substances may be used, but only for the securing of mirrors, brushes, stones, enamel plates or similar elements of base metals in frames, mountings, settings or bases etc.
- (b) The blades of knives and the front part of dinner service forks and spoons etc. may be secured to their handle by means of cement, lead or plastic materials, it being understood that the handles may be completely filled with these materials or other substances.

2. Filling of hollowed articles of precious metals

- a) The foot or base of objects which stand vertically, such as vases, candelabra, candlesticks, goblets, glasses and similar objects may be filled with non-metallic substances such as plaster, cement or plastic materials. These fillings may be covered with wood, textile materials or similar substances.
- b) It is permissible to weight the feet or bases of the articles referred to under a) and of boxes with a metal filler (e.g., lead) or with plates of base metal, provided that the word "metal" is visibly stamped on this filling or on these metal plates. If the non-metallic fillings referred to under a) are held by a metal securing plate, this plate should also be visibly marked "metal". Metal plates used for securing or weighting purposes should not be soldered to the base etc., but should be mounted so as to be detachable.

The total weight of precious metal in the article must be given in grams.

3. Use of mechanisms and similar elements of base metals

It is permissible to use, for example, mechanisms, securing pins and pegs, small springs, small nuts, press-buttons, small screws, hinge lugs, securing clips, intersection surfaces, securing plates, knife blades and the front parts of dinner service forks or spoons of base metals to the extent that technical requirements render their use essential. Where the base metal cannot be recognized, these parts are to be marked as "metal".

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4. Use of several different precious metals in the same article

- a) The use of several precious metals in the same article is permissible provided that :
- the metals are hallmarked separately;
 - if one of the precious metal parts is too small to be hallmarked, it is clearly visible and distinguishable from the other precious metal parts around it.
- b) The covering, in part or in whole, of silver articles with a layer of gold (mechanically or by other means) is permissible. These articles are to be hallmarked as silver.
- c) The covering, in part or in whole, of gold or silver articles with a layer of rhodium (rhodium-plating) is permissible. These articles are to be hallmarked as gold or silver respectively.

5. Use of precious metal soldering on hollowed articles of precious metals and similar articles

In articles of precious metals consisting of several parts assembled by soldering with precious metals, the constituent metal of each of the parts must meet the requirements for the standard of fineness.

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