

Documentos del Gabinete Tecnico Confederal

49

**Workplace Representation in
Spain**

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CONTENTS

Introduction

Table with the structure of workplace representation in Spain

Workers' committees/workers' delegates

Trade union representation

Table with the number of members in each of the organs of workplace representation and paid time off rights.

Definitions of each of the organs

Health and safety representation

Union Organisation

Collective Bargaining

Information and Consultation Directive: the case of Spain.



WORKPLACE REPRESENTATION IN SPAIN

Introduction

Spain has a population of 39,2m, the fifth largest in the European Union. Politically and economically isolated from the rest of Europe during much of the last 200 years, Spain is less wealthy than its northern neighbours with the exemption of Ireland.

The proportion of the population working in agriculture is still almost twice the European average- 9,9% as opposed to 5,5% -although it has more than halved since the death of Franco in 1975. Industrial employment is close to the European average at 30.1% but service employment is below the average for Europe -60.0% as opposed to 63.9% -despite Spain's important tourist industry.

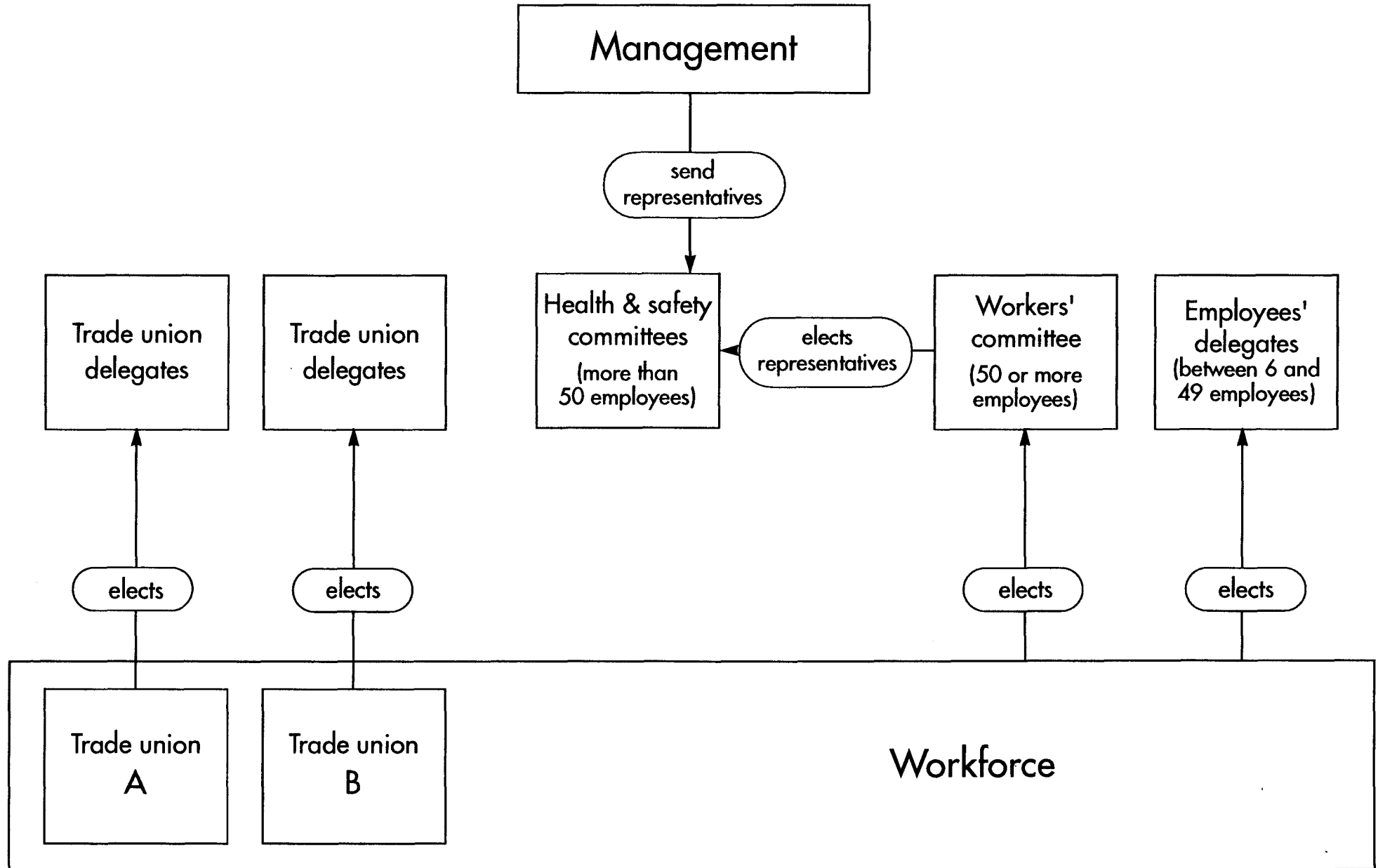
Spain has a lower percentage of its population aged 15 and over working than anywhere else in the European Union. Only 36.6% are employed, compared with the European average of 49.1%. The two principal reasons for this are, first, fewer women are in the labour market, and second, that Spain has a very severe unemployment problem. Around one quarter of those who would like to work are unemployed.

Foreign-owned multinationals are heavily involved in the Spanish economy. As well as investing in areas of traditional strength, such as food and drink, multinationals have also taken advantage of the tax incentives and of Spain's relatively low labour costs to set up new plants.

The death of Franco in 1975 marked the end of a period of undemocratic and authoritarian rule and in 1982 a socialist government was elected. The past few years, however, have seen increasing moves to deregulate the economy with a series of clashes between the government and the unions.

Workplace representation in Spain has a clear legal framework. In the main it is provided by the 1980 Workers Statute which states that workers have 'the right to participate in the company' and lays down a series of rules for this to occur. (The rules are slightly different in the area of public services.)

WORKPLACE WORKERS' REPRESENTATION IN SPAIN



WORKERS' COMMITTEE / WORKERS' DELEGATES.**Legal framework**

Workers Statute of 1980 (articles 61 to 81).

Scope of election: Individual workplaces

Fewer than 6 employees	No elected representative
Between 6 and 49 employees	Workers' delegates
50 or more employees	Workers' committee

Companies with several workplaces

A multi-plant workers' committee, bringing together several workers' committees in the same company is possible but only where this is provided for in collective agreements. The maximum number of members of this multi-plant workers' committee (comité intercentros) is 13 and its powers are those laid down by the collective agreement. The existence of a multi-plant workers' committee does not remove the necessity for setting up individual workers' committee in every workplace with at least 50 employees.

Eligibility and elections

- Members of workers' committees and workers' delegates are elected by and from among all the employees.
- Elections for workers' committees and workers' delegates take place every four years and those elected hold their mandate for four years.
- Nominations are made on the basis of lists for all members of the workers' committee either by unions or by groups of individual employees.
- The vast majority of elected representatives are proposed by the unions and success in the elections triggers a whole range of union rights.

Role

- To defend the interests of the entire enterprise workforce.

Rights and guarantees of workers' committees and workers' delegates.
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INDIVIDUAL GUARANTEES:

- They cannot be punished for allegedly serious misconduct without the workers' committee having a right to make its case to the employer.
- Priority where employees are being dismissed for economic or technical reasons.
- Protection against dismissal or other disciplinary procedures during their period of office and in the year following.
- Paid time off for their duties.
- They have a duty to keep confidential material which the employer specifically states should remain confidential.

COLLECTIVE RIGHTS:

- The employer is obliged to provide them with an adequate room and notice boards for their use.
- Being informed on economic and financial matters such as sales figures and profits.
- Being informed on the type and number of new employment contracts being signed by the employer. They must see a copy of all of them as well as the forecast for the future. Because of the high number of temporary contracts this is a very important issue in Spain.
- Being informed in advance and be able to comment on the employer's proposals on issues such as large scale redundancies, restructuring the workforce, transferring production, changing working hours, payments systems and training.

- Right to be present, if the employee wishes, when an employment contract is officially ended.
- Being informed of all punishments imposed for gross misconduct.
- Receiving statistics on absenteeism, accidents at work and occupational illness.
- Monitor that the employer is complying with the law, as far as employment, social security and health and safety issues are concerned.

TRADE UNION REPRESENTATION.

Legal framework

Trade Union Freedom Act (LOLS) of 1985.

Structure within the workplace

- Trade union Sections: they bring together all the members of a particular union with specific rights to promote union policy and represent the union in the workplace.
- Their internal procedures and activities are governed by the rules of the individual unions.

Larger workplaces: trade union delegates

- In larger workplaces- those with more than 250 employees - members of unions represented in the workers' committee have a legal right to elect trade union delegates who sit on the workers' committee but have no vote. Generally there is only one trade union delegate per union but in the largest workplaces -with more than 750 employees- there can be more - up to four with 5,000 plus employees -provided the union has at least 10% of the votes in the elections to the workers' committee.

Eligibility and elections

- Trade union delegates are elected by and from among the trade union's members.

Role

- Inside the workplace trade union sections are a forum for discussing and promoting union policies, as well as ensuring the payment of union subscriptions.
- Outside the workplace trade union sections play a part in the decision-making structures of the union.

Rights and guarantees of trade union delegates

INDIVIDUAL GUARANTEES:

The same as the members of the workers' committees and workers' delegates.

COLLECTIVE RIGHTS:

- Access to the same information as the members of the workers' committees and workers' delegates.

- Right to sit on the workers' committee but with no right to vote.

- Right to be heard by the employer before action is taken against workers in general and their own union members in particular, especially where there is a possibility that union members may be dismissed. They are thus in a stronger position than the workers' committee or the workers' delegates as they can simply be informed after the event by the employer.

WORKPLACE REPRESENTATION IN SPAIN

No. of workers	Workers' committees / workers' delegates		Trade union delegates		
	No. of members	Paid time-off per month: hours for each member	No. of workers	No. of trade union delegates	Paid time-off per month: hours for each delegate
6 to 30	1	15			
31 to 49	3	15			
50 to 100	5	15			
101 to 250	9	20			
251 to 500	13	30		1	30
501 to 750	17	35		1	35
751 to 1000	21	40	751 to 2000	2	40
from 1000	21 plus a further 2% per every thousand up to a maximum of 75	40	2001 to 5000	3	40
			from 5001	4	40

DEFINITIONS¹

Workers' committee- comité de empresa.

Organ of workforce representation in enterprises or workplaces with 50 or more employees; its purpose is to defend and promote employees' interests at work. In contrast to trade union representatives, its members (5-75, depending on the size of the enterprise or workplace) are elected by and from among all the employees and hold their mandate for four years. Its powers and responsibilities include the right to negotiate company or workplace agreements; the right to information or consultation on financial, commercial and labour matters; responsibility for supervising and monitoring compliance with regulations on labour matters, social security, employment and health and safety; and the right to take administrative and legal action. Its members must observe professional confidentiality. In contrast to the situation in other countries, the role of the workers' committee in Spain is principally one of opposition, rather than of involvement in joint management. It occupies a central position in the Spanish industrial relations system both because of its powers and responsibilities and because of its ability to bring trade union activities and programmes into the enterprise and workplace, given that, although it is not union-based, it has from the start been influenced and even dominated by the trade unions.

Multi-plant workers' committee - comité intercentros.

Body representing all the employees of an enterprise which has several workplaces, with more than one workers' committee or with one such body plus the workers' delegates. Its members are elected by and from among these workforce representatives, and its composition must be proportional to the strength of the different trade unions within its sphere of competence. Although it is not a body directly required by law (since both its setting-up and its powers and responsibilities are decided by a collective agreement), its role in the Spanish industrial relations system

¹ European Employment and Industrial Relations Glossary: Spain. European Foundation for the Improvement of Living and Working Conditions.

has been increasing over the past few years, particularly since its right to negotiate company agreements has been recognised in law. These committees are very commonly set up in large enterprises.

Workers' delegates - delegados de personal.

Workforce representatives of employees in enterprises or workplaces with fewer than 50 or more than 6 employees. Their number varies between one and three, they are elected by majority vote of the entire workforce in the so-called union elections, and they have the same powers and responsibilities, facilities for workers' representatives and guarantees for workers' representatives as members of workers' committees. They play an important role in the Spanish industrial relation system, both because of the specific representational functions they perform and because although formally they are not a union channel of representation they are a means through which trade union can influence an enterprise's activities.

Trade union delegates - delegados sindicales.

Trade Union representatives in the enterprise or workplace. This form of representation was introduced in Spain through collective bargaining and then passed into law in 1985 (Trade Union Freedom Act), where trade union delegates are defined as representatives of the strongest workplace branches in enterprises or workplaces with more than 250 employees; they are elected by and from among the trade union's members. They have the same facilities for workers' representatives and guarantees for workers' representatives as workers' representatives, and their functions are centred on consultation on matters relating to members, defending members' interests before the employer, and acting as the communication channel between the employer and the union. Their role is becoming increasingly important, particularly in large enterprises with a marked trade union presence.

Facilities for workers' representatives - facilidades de los representantes de los trabajadores.

Set of prerogatives and rights granted to workers representatives to enable them to perform their functions. Under Spanish provisions, they include freedom of expression, freedom of movement and access to workplaces; disclosure of information/rights to information and the right to communicate information to the workers they represent; provision of a union room and a notice-board; and, in particular, time-off rights to enable them to perform their functions without prejudice to their rights in employment.

Guarantees for workers' representatives - garantías de los representantes de los trabajadores.

Set of rules, measures and provisions intended to protect workers' representatives in carrying out their functions. The main guarantees are the prohibition of sanctions or discrimination because of the legitimate performance of their duties as representatives, and the requirement that the employer must follow a disciplinary procedure when imposing disciplinary sanctions for serious or very serious offences.

HEALTH AND SAFETY REPRESENTATION

Legal framework

“Health and safety law” of 1996.

Structure within the workplace

SAFETY REPRESENTATIVES: They are elected in companies with 6 or more employees by and from among members of the workers’ committees and workers delegates, depending on the size of the company.

HEALTH AND SAFETY COMMITTEES: They are set up in workplaces with more than 50 employees. They are joint bodies with members representing both the employer and the workforce. They are formed by the safety representatives and by the same number of management representatives.

Role

The health and safety committee and the safety representatives should monitor compliance with health and safety legislation. But they are also able to investigate the causes of accidents and occupational diseases and propose preventive measures.

Rights and guarantees

Safety representatives have the same rights and guarantees as members of the workers’ committees and workers’ delegates.

UNION ORGANISATION

- Spanish unions are weak in membership terms: around 16% of Spanish workers are in unions.

- Although weak in membership terms, they have clearly substantial support among the workforce. This is shown by their dominance of the workers' committee and workers' delegates elections and by their ability to mobilise members and non-members alike for industrial action.

NATIONAL LEVEL

- There are two main trade union confederations in Spain at national level, the Comisiones Obreras (CC.OO.) and the Unión General de Trabajadores (UGT). Since the end of the 1980s relations between CC.OO. and UGT have become much closer and they generally act together on major issues.

- At national level the CC.OO. and UGT have similar levels of support. In the 1994 workers' committees elections the CC.OO. won 38% of the seats and the UGT 35%.

REGIONAL LEVEL

- There are two important groupings with a regional base, ELA/STV in the Basque Country and CIG in Galicia. According to the results of the workers' committees elections ELA/STV is the strongest confederation in the Basque country, winning more than the CC.OO. and UGT combined in the last elections. In Galicia CIG is in third place, after UGT and CC.OO.

All the confederations are structured on an industry basis with separate federations for different sectors such as metal working, public services, food and banking. However, these industrial groupings are better seen as sections of the main confederation rather than autonomous bodies, Spanish trade unionists are more likely to describe themselves as members of the UGT and CC.OO. than name their industry dedication.

COLLECTIVE BARGAINING

- Collective agreements are legally binding on the area they cover, whether or not the employers are members of the employers' federation or the workers members of the union, as long as the negotiating parties are entitled to sign the agreement.

- Agreements normally last for one or two years, almost invariably starting from 1 January.

- The law lays down specific rules as how negotiations are to be conducted and the composition of both sides. It also states that the negotiations must be carried on in 'good faith' and can only be concluded when at least the majority of each side is in favour.

- Contents: pay, working time, trade union rights, and often agreements include a clause providing additional payments if inflation exceeds an agreed level.

- Collective agreements takes place primarily at three levels: national sectoral level, provincial sectoral level and company level.

Company level.

- It takes place generally in the medium and large sized companies.

Negotiating parties: the employer and the workers' committee/workers' delegates or trade unions representing (by votes) the majority of the workforce.

Provincial sectoral level.

- Applicable to all the companies of a given sector which do not have a company agreement. These agreements cover all the companies of a sector within a province (there are 52 provinces in Spain).

- Negotiating parties: employers' organisations representing at least 10% of the companies in that sector and throughout the whole province. Trade unions that won more than 10% of the representatives in the workers' committees elections throughout the whole province.

National sectoral level

- Applicable to all the companies of that sector, generally improved by company agreements.

- Negotiating parties: employers' organisations representing at least 10% of the companies in that sector and throughout the whole country. Trade unions that won more than 10% of the representatives in the workers' committees elections throughout the whole country or more than 15% in an Autonomous Community. These conditions are met by CC.OO., UGT and two regional unions, ELA/STV in the Basque Country and CIG in Galicia.

National level inter-sectoral agreements.

Negotiations between the union confederations and employers at national level and covering all sectors -often called interprofessional agreements- have in recent years dealt with topics such as Continuing Training and Mediation and Arbitration.

INFORMATION AND CONSULTATION DIRECTIVE: THE CASE OF SPAIN.

The Directive was adopted on 22nd September , 1994 and the deadline for transposition into national legislation is 22nd September, 1996. The Directive, which requires improved information and consultation of employees in Community-scale undertakings or groups of undertakings, effectively applies to 17 countries (European Union minus UK; but including Norway, Iceland and Liechtenstein).

According to a studied carried out by the European Trade Union Institute (ETUI) -the research institute of the ETUC- there are 21 Spanish companies -with the head office based in Spain- that will be affected by the Directive. Furthermore, there are 854 subsidiary companies in Spain of companies affected by the Directive.

There is a draft document for the transposition of the Directive into Spanish legislation. This draft document has the approval of the main trade unions and employers' organisations. The document recognises trade unions as workers' representatives, in addition to workers' committees and workers' delegates.

The trade union Comisiones Obreras (CC.OO.), following the position of the ETUC, has recommended to its sectoral federations that the request for the opening of negotiations to set up a European Works Council should come from an European Industry Committee or from the trade unions in the country where the head office is.

Although the UK and Switzerland are not covered by the Directive, trade unions from these countries should take part in the negotiations since the beginning, provided the company have subsidiaries in those countries. The same will apply to trade unions from Eastern and Central Europe.

Any agreement should consider the following issues:

- The right of the employees' representatives to organise between them preparatory meetings and to invite trade union experts to those meetings.

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- The right of the employees' representatives to invite experts to the meetings of the Council. It should not be accepted the demand for experts to be employees of the same company.
 - The right of the employees' representatives to propose issues to be dealt with during the Council meetings.
 - There should be a fair representation of men and women. Equal opportunities should be part of the issues dealt with by the Council.
 - The agenda for the Council meeting should be jointly prepared by central management and employees' representatives.
 - The minutes of Council meetings should be approved by both central management and employees' representatives.
 - Expenses relating to the Council shall be borne by central management so as to enable the Council to carry out its task. These expenses include training in foreign languages for the members of the Council and the funding of experts to assist the employees' representatives.
 - There should be translation in all the languages represented in the Council.
 - There should be at least one Council meeting every year. The Council should be informed and consulted with enough anticipation before taking decisions.

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- 2.- Comentarios al problema de la vivienda y diferentes propuestas para su solución. Mayo 1990.
- 3.- Los fondos de inversión de asalariados. Octubre 1990.
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- 5.- Reflexiones sobre la competitividad de la economía española. Junio 1991.
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- 8.- Modificaciones en la tributación de las retribuciones en especie en el IRPF. Marzo 1992.
- 9.- Los acuerdos de Maastricht. Los riesgos de la convergencia monetaria sin cohesión económica y social. Marzo 1992.
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- 11.- Los despidos en España: legislación, evolución y coste. Octubre 1992.
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- 13.- Consideraciones al nuevo Índice de Precios al Consumo (IPC-92). Marzo 1993.
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- 17.- Análisis sobre el modelo de política económica propuesto por el Gobierno. Algunas líneas generales alternativas de actuación. Agosto 1993.
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- 29.- Notas acerca de las repercusiones sobre la equidad y la competitividad de la creación de un impuesto comunitario sobre la energía y las emisiones de CO₂. Marzo de 1995.
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- Una fotografía de las telecomunicaciones en España.
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- 39.- Información y Orientación Profesional en España: Sistemas Integrados para el Empleo (SIPE's). Enero 1996.
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44.- Valoración de las medidas aprobadas por el Partido Popular presentadas como instrumentos para la reactivación de la actividad económica. Junio 1996

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47.- Sustitución de las Ordenanzas Laborales. Mayo de 1996.

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