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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on control of major-accident hazards involving dangerous substances

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Grounds for and objectives of the proposal

Directive 96/82/EC on the control of major-accident hazards involving dangerous substances (hereinafter the Seveso II directive) is aimed at preventing major accidents involving large quantities of dangerous substances (or mixtures thereof) as listed in its Annex I and to limit the consequences of such accidents for man and the environment. There is a tiered approach to the level of controls, with the larger the quantities of substances, the stricter the rules.

The Directive has to be amended due to changes in the EU system of classification of dangerous substances to which the Directive refers. In the light of this, it was decided in 2008 to launch a wider review since the basic structure of the Directive and its main requirements have remained essentially unchanged since its adoption. Although the review has shown that that overall the existing provisions are fit for purpose and that no major changes are required, a number of areas were identified where limited amendments would be appropriate in order to clarify and update certain provisions and to improve implementation and enforceability while maintaining or slightly increasing the level of protection for health and environment.

The proposal is intended to address these issues.

General context

Industrial accidents involving dangerous substances often have very serious consequences. Some well-known major accidents like Seveso, Bhopal, Schweizerhalle, Enschede, Toulouse and Buncefield have taken many lives and/or damaged the environment and cost up to billions of euro. In the wake of these accidents, political awareness has sharpened towards recognising the risks and taking appropriate precautionary action to protect citizens and communities.

The Seveso II Directive, which covers around 10,000 establishments within the European Union, has been instrumental in reducing the likelihood and consequences of chemical accidents. However there is continuing need to ensure that existing high levels of protection are maintained and if possible further improved.

Existing provisions in the area of the proposal

The current provisions are those established by the Seveso II Directive. The aim is to revise those provisions.

Consistency with other policies and objectives of the Union

The main reason for the revision of the Seveso II Directive is to align its Annex I to Regulation (EC) No. 1272/2008 on classification, labelling and packaging of dangerous substances and mixtures (hereinafter the CLP Regulation), which amends and repeals Directives 67/548/EEC and 1999/45/EC to which the Seveso II Directive currently refers. The CLP rules become definitive with effect from 1 June 2015.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

Consultation of interested parties

During the review process over the last two years, stakeholders (individual companies, industry associations, NGOs, Member State competent authorities) were consulted in a number of ways, including web-base questionnaires available for all stakeholders; consultation of competent authorities in the Member States through the regular meetings of the committee of competent authorities (CCA) and related seminars; on the Annex I alignment, via a multi-stakeholder technical working group, comprising experts from Member States, industry and environmental NGOs (the technical report from which is available on DG ENV's website); and a stakeholder consultation meeting held on 9 November 2009 in Brussels, attended by around 60 representatives from national and European industry and environmental NGOs as well as individual companies, following which around fifty written submissions were received.

There was general agreement that no major changes to the Directive are necessary. There was broad support in principle for further clarifying and updating the provisions, although views varied on specifics.

Further details can be found in the impact assessment and on DG ENV's website at <http://ec.europa.eu/environment/seveso/review.htm>).

Collection and use of expertise

As part of the review process, several studies were carried out by external contractors. These included two studies assessing the effectiveness of the Directive and two studies supporting the impact assessment of the economic, social and environmental impacts of the various policy options.

The findings from the three-yearly implementation reports from Member States were also taken into account.

Further details can be found in the impact assessment and on DG ENV's website at <http://ec.europa.eu/environment/seveso/review.htm>).

Impact assessment

The main problems covered in the impact assessment related to the alignment of Annex I to the CLP Regulation and the impact on the scope of the Directive, which was the key issue. Related to that issue were possible other technical amendments to Annex I and the procedures for adapting Annex I in the future. Other issues related to information to the public and information management systems and land-use planning, where experience of implementation to date indicates that some opportunities for improvements or new requirements may exist; and other detailed provisions which could usefully be clarified or updated, in some cases to more closely reflect existing practices.

The impact assessment assessed a number of policy options with the aim of identifying a cost-effective package of measures to address these issues. The assessment has led the Commission to propose a number of amendments, of which the main ones are as follows.

As regards the alignment of Annex I, a simple change of reference or one-to-one translation from the old classification system to the CLP Regulation is not possible, mainly because for health hazards the old hazard classification categories 'toxic' and 'very toxic' do not correspond to the new CLP 'Acute Toxicity' 1 to 3, which are moreover divided into different exposure routes (oral, dermal and inhalation). A further complication is that as substances are classified or re-classified under the CLP Regulation over time, this will automatically impact on the scope of the Seveso legislation. The Commission is proposing the option that, in addition to a very limited impact on scope shared with other options, maintains a high level of protection taking into account the most likely and relevant exposure routes in the event of a major accident. To deal with situations arising over time from the alignment where substances are included/excluded under the Directive that do/do not present a major-accident hazard, a package of corrective mechanisms to adapt Annex I via delegated acts is proposed.

As regards information to the public, etc, it is proposed to improve the level and quality of information and how this is collected, managed, made available, updated and shared in an efficient and streamlined way. This will bring the Directive more into line with the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters, update its procedures to take account of advances in information management systems such as the internet and the ongoing efforts to improve the efficiency of such systems like the Shared Environmental Information System (SEIS) initiative and the INSPIRE Directive (2007/2/EC).

The remaining amendments proposed are relatively minor technical adaptations to existing provisions.

Taken as a whole, the potential changes considered represent a moderate adaptation of the Directive and would not significantly affect the level of protection or the costs of the Directive. Overall, the costs of these are low compared with the total costs of the Directive.

The impact assessment is submitted with this proposal.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

The aim of the proposal is to revise the Directive to align it to the CLP Regulation and also to clarify, improve or add certain provisions to ensure better, more consistent implementation and enforcement of the legislation with the aim of achieving a high level of protection, while where possible simplifying legislation and reducing administrative burdens.

Legal basis

The primary objective of the Directive is the protection of the environment. This proposal is therefore based on Article 192(1) TFEU.

Subsidiarity principle

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Union.

The objectives of the proposal cannot be sufficiently achieved by the Member States since the Seveso II Directive sets goals and objectives for the prevention and control of major accidents throughout the European Union. This principle is maintained in the current proposal. In addition, many major accidents can have transboundary effects. All Member States could be affected by such accidents and therefore need to take measures in order that the risks to the population and the environment in each Member State can be reduced.

Community action will better achieve the objectives of the proposal because of the need to avoid significantly different levels of protection in the Member States, particularly in view of possible distortions of competition that could result. The proposal leaves the detailed means of implementation, compliance and enforcement to be decided by the appropriate authorities.

The proposal therefore complies with the subsidiarity principle.

Proportionality principle

The proposal complies with the proportionality principle for the following reasons. It follows the goal-setting approach of the Seveso II Directive, leaving sufficient flexibility to the Member States to determine how to achieve the objectives laid down. The new provisions do not go beyond what is necessary and the current proportionate approach, with the level of controls based on the quantities of dangerous substances present in establishments, is maintained.

Choice of instrument

The proposed instrument is a directive. Given the fact that the existing legislation sets Community objectives while leaving the choice of measures for compliance to the Member States, the best instrument is a directive. Given the nature and extent of the changes compared with the current Directive, a revision of that in the form of an amending Directive or recast would not be appropriate. A new directive is therefore proposed.

4. BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

5. ADDITIONAL INFORMATION

Simplification

Some elements of the proposal should help to reduce unnecessary administrative burden, in particular by encouraging, at Member State level, coordinated inspections, more integration in information and procedural requirements, and by simplifying and

streamlining implementation reporting requirements through moving towards an extended shared information system. Clarifications to existing provisions will also improve readability and give greater legal certainty.

Repeal of existing legislation

The adoption of the proposal will lead to repeal of the existing Directive.

Correlation table

The Member States are required to communicate to the Commission the text of national provisions transposing the Directive as well as a correlation table between those provisions and this Directive.

European Economic Area

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

Detailed explanation of the proposal

The following provides information about the specific Articles. Except where indicated otherwise, the provisions are unchanged in substance from those set out in Directive 96/82/EC.

Article 1

This Article outlines the aim and objectives of the Directive.

Article 2

Article 2 defines the scope of the Directive, which applies to establishments where dangerous substances listed in Annex I are present above prescribed thresholds. The provisions of Article 2 are essentially unchanged from Directive 96/82/EC. However the order of Parts 1 and 2 of Annex I has been reversed so that Part 1 of Annex I lists categories of dangerous substances according to their generic hazard classification (in accordance with the CLP Regulation) and part 2 lists named dangerous substances or groups of substances that, notwithstanding their generic hazard classification, warrant specific listing.

The main differences in terms of content of the Annex are as follows.

The main change concerns health hazards. The former category "Very Toxic" has been aligned to the CLP category "Acute Toxic 1" and "Toxic" to "Acute Toxic 2" (all exposure routes) and "Acute Toxic 3" (dermal and inhalation routes).

Several more specific CLP categories for physical hazards that did not exist before replace the more general old categories for oxidizing, explosive, and flammable hazards. These, together with the environmental hazard categories, represent a straightforward translation and maintain the current scope in relation to such hazards as closely as possible. For the new category of flammable aerosols, the thresholds have been adapted proportionately to those that apply currently based on their

flammable properties and components; and for reasons of consistency, the group of pyrophoric substances has been completed by the inclusion of pyrophoric solids.

The new Annex I Part 2 retains the old Part 1 largely unchanged. The only changes are an updated reference to the CLP Regulation for liquefied flammable gases; the inclusion of anhydrous ammonia, boron trifluoride, and hydrogen sulphide as named substances, previously covered by their hazard categories, to keep their thresholds unchanged; the inclusion of heavy fuel oil in the entry for petroleum products; clarifications to the notes in relation to ammonium nitrate; and an update of the toxic equivalency factors for dioxins.

Furthermore the exclusions to the Directive previously listed in Article 4 of Directive 96/82/EC are listed here. These are maintained, subject to the following changes:

- to remove any possible doubts, the exception to the exclusion for the exploitation of minerals in mines and quarries or boreholes is amended to include underground gas storage.
- the possibility to exclude substances from being regarded as dangerous substances for the purposes of the Directive because they do not present a major-accident hazard (see Article 4).

Among the excluded areas are the offshore exploration and exploitation of minerals, including hydrocarbons. As announced in its recent communication "Facing the challenge of the safety of offshore oil and gas operations" in the light of the oil rig accident in the Gulf of Mexico, the Commission will assess the appropriate way to strengthen environmental legislation with provisions that may be necessary to complement existing environmental legislation in relation to pollution control, inspection and accident prevention and management as regards individual offshore installations, ensuring a high level of protection of the environment in such activities. Corresponding legislative proposals will include either extending the scope of existing legislation to offshore oil and gas installations or a stand-alone initiative for such operations.

Article 3

This Article defines the basic terms used in the Directive. Compared with Directive 96/82/EC, the following changes should be highlighted:

- the definitions of "establishment" and "operator" have been clarified, with the latter brought more into line with the definition in the Industrial Emissions Directive.
- the reference to 'presence of dangerous substances' in Article 2 of Directive 96/82/EC is moved to this Article
- definitions are added for the different kinds of establishments falling within the Directive's scope and "inspections". Definitions are also included for "the public" and "the public concerned", in line with the EU legislation implementing the Aarhus Convention.

- the definition of "installation" is clarified to make it clear that underground installations are included.

Article 4

This new Article provides for correction mechanisms to adapt Annex I as necessary via delegated acts. This is needed in particular to address unwanted effects from the alignment of Annex I to the CLP Regulation and subsequent adaptations to that Regulation, which could lead to substances and possibly mixtures being automatically included in or excluded from the Directive irrespective of whether or not they present a major accident hazard. The mechanisms would take the form of EU-wide substance derogations and establishment-specific derogations at Member State level on the basis of harmonised criteria for substances/mixtures that are caught but should be excluded, and, as a counterpart, a safeguard provision enabling the inclusion of non-captured hazards. The criteria for the derogations would be based on those laid down in Commission Decision 98/433/EC and would be established by delegated acts by 30 June 2013.

Article 5

This Article repeats the existing requirements of Article 5 of Directive 96/82/EC, which set out the general obligations on operators.

Article 6

This Article extends the information obligations in relation to notifications set out in Article 6 of Directive 96/82/EC to include information about neighbouring establishments, etc, whether or not they are covered by the Directive, needed for the purposes of Article 8 relating to domino effects. In addition operators will be required to update their notifications at least every five years. All this will help competent authorities to manage implementation of the Directive more effectively.

Article 7

Article 7 of Directive 96/82/EC is amended to make it clear that all establishments must have a major-accident prevention policy (MAPP) proportionate to the hazards. The scope of the MAPP and its relationship with safety management systems (SMS) pursuant to Article 9 and Annex III is also clarified, by deleting the reference to the latter.

New provisions are introduced requiring that the MAPP should be available in writing and sent to the competent authority and that it should be updated at least every five years, in line with the proposed frequency for updating notifications under Article 6.

Article 8

This Article covers so-called domino effects. It maintains the obligation on competent authorities to identify those establishments that are so close together that the consequences of a major accident are increased. However the text is clarified to make it clear that the provisions apply to both upper- and lower-tier establishments and that the key aim is to ensure that operators exchange information with

neighbouring establishments, including those that fall outside the scope of the Directive.

Article 9

This Article maintains the core requirement for upper-tier establishments to prepare a safety report, previously contained in Article 9 of Directive 96/82/EC. The main change is to clarify the relationship with the MAPP and SMS, particularly in respect of the obligations for lower-tier establishments in the latter regard. The need for a proportionate approach is also highlighted.

The content of the safety report is detailed in Annex II and remains largely unchanged (see below). The need for the report to demonstrate that possible major-accident scenarios have been taken into account is also underlined.

As regards the safety management system (SMS), changes are introduced in Annex III (see below) to remove the references to the MAPP, which lower-tier establishments are required to have. At the same time it is underlined that the SMS, in particular for a lower-tier establishment, should a Member State so require, should be proportionate to the hazards and risks.

The provisions for periodic updating of the safety report are maintained, but with an express requirement for such updated reports to be communicated without delay to the competent authorities.

Article 10

This Article requires operators to update their managements systems and procedures and, in particular, their MAPP and safety report in the event of significant modifications within their establishment. Minor changes are introduced in line with changes made to related provisions.

Article 11

Article 11 maintains the requirements relating to emergency planning for upper-tier establishments previously set out in Article 11 of Directive 96/82/EC, subject to two minor modifications: to require that public consultation on external emergency plans is in line with the principles of the relevant provisions of Directive 2003/35/EC implementing the Aarhus Convention; and to make clearer the separation of responsibilities between operators and competent authorities in relation to the review, testing and updating of internal and external emergency plans. In addition, to avoid significant delays in the completion of plans, which are an essential in terms of adequate preparedness and response in the event of accidents, a new obligation is for the competent authority to draw up the external emergency plan within 12 months after receipt of the necessary information from the operator.

Annex IV details the information to be contained in the plans and carries over the requirements laid down in the corresponding Annex in Directive 96/82/EC, with certain amendments (see below).

Article 12

This Article contains the provisions relating to land-use planning. It is essentially unchanged from Directive 96/82/EC apart from minor changes such as to clarify that the aim is to protect the environment as well as human health and that it applies to all establishments; to provide for measures other than safety distances (which may not be appropriate) to protect areas of particular natural sensitivity or interest; and to provide where possible for integration of land-use planning procedures with those under the Environmental Impact Assessment Directive and similar legislation; and to provide the possibility for competent authorities to require lower-tier establishments to provide sufficient risk-related information for the purposes of land-use planning. These changes will bring the text more into line with its aims and more closely reflect existing practice.

Article 13

This Article retains the current requirements that information should actively be made available to persons liable to be affected by a major accident and also kept permanently available. It leaves open who is responsible for the provision of such information. The main changes are to extend the information to include basic information for all establishments (name, address and activities), which is provided to the Commission under Article 19 of the current Directive, but is not made publicly available; and for upper-tier establishments, a summary of the major-accident scenarios and key information from the external emergency plan; and, without precluding other forms of communication, to have this information kept permanently available to the public online and provided to a central database at Union level as provided for in Article 20.

Confidentiality of information is ensured, where necessary and appropriate, by Article 21.

These changes will make it easier for the public to access relevant information and be better informed in the event of an accident. It will also make it easier for competent authorities to monitor that information is available and kept up to date.

Article 14

This is a new Article that builds on and extends the requirements laid down in Article 13(5) of the current Directive requiring that the public should be able to give its opinion in certain cases relating to land-use planning, modifications to existing establishments, external emergency plans, etc. The provisions are largely based on Directive 2003/35/EC, with the aim to bring the Seveso II Directive more into line with the corresponding provisions of the Aarhus Convention.

Articles 15 and 16

These two Articles relate to the reporting of major accidents by operators and competent authorities respectively. The main change is setting a 12 months deadline for the submission of reports to avoid lengthy delays in the reporting of accidents by Member States. This, and a change to the quantity threshold set out in Annex VI, which establishes the criteria for reportable accidents (see below), will aid prevention of future accidents by allowing early reporting and analysis of accidents and near-misses involving significant high quantities of dangerous substances so that information and lessons learned can be shared.

Articles 17,18,19 and 27

These Articles maintain and build upon the existing provisions relating to the role and responsibilities of competent authorities with the aim of ensuring more effective implementation and enforcement.

Article 17 introduces a requirement for Member States with more than one competent authority to appoint one to take the lead in coordinating activities. It also sets out arrangements for cooperation between the competent authorities and the Commission in activities in support of implementation, using the existing committee of competent authorities ("the forum") and related technical working groups, such as development of guidance, exchanges of best practices and consideration of notifications made pursuant to Article 4.

Article 19 strengthens the existing requirements in relation to inspections. The new provisions are largely based on Recommendation 2001/331/EEC providing for minimum criteria for environmental inspections in the Member States and the Industrial Emissions Directive. The importance of making available sufficient resources for inspections, and the need to encourage exchange of information, for example at Union level through the current Mutual Joint Visits Programme for inspections, is underlined.

Articles 18 and 27 (which is new) set out the measures to be taken in the vent of non-compliance, including prohibitions of use and other penalties.

Article 20

This Article relates to the availability of information on establishments and major accidents held by the Commission. The main change is that provisions of the current Directive are improved and strengthened by extending the current Seveso Plants Information Retrieval System (SPIRS) database to include the information to the public referred to in Article 13 and Annex V and to make that database open to the public. Access could be either through links to documents directly loaded on to the system or through links to the websites of Member States and/or operators. This sharing of information would help to ensure that the public has the necessary information and allow operators and competent authorities to draw lessons from the best practices of others.

The database would also be used for the purposes of reporting on implementation by Member States, which would streamline and simplify the current arrangements.

Article 21

This sets out new rules on confidentiality, which are based on Directive 2003/4/EC implementing the provisions of the Aarhus Convention relating to public access to environmental information, which place greater weight on openness and transparency while providing for non-disclosure of information in duly justified cases where confidentiality is required such as for security reasons.

Article 22

This Article is a new provision, bringing the Directive more into line with the Aarhus Convention by requiring that Member States should ensure that the public concerned, including interested environmental NGOs, have access to administrative or judicial review to challenge any acts or omissions that could breach their rights in relation to access to information pursuant to Articles 13 and 21(1) or consultation and participation in decision-making in relation to cases under Article 14.

Articles 23 to 26

Article 23 provides that Annexes I to VII will be adapted to technical progress by delegated acts (which will also be used to establish criteria for derogation pursuant to Article 4(4) and the granting of derogations for substances to be listed in Part 3 of Annex I). The other Articles are standard provisions relating to the exercise of the delegation of such implementing powers, and the procedures for revocation and objections.

Articles 28 to 31

These Articles concern transposition by Member States, entry into force of the new Directive and repeal of Directive 96/82/EC. The date on which Member States shall apply the Directive, 1 June 2015, is the date on which the CLP Regulation becomes definitive.

Other Annexes

Annex II contains the items to be considered in the safety report required by Article 9. The content of the different parts of the Annex are largely unchanged compared with Annex II in Directive 96/82/EC. The main changes are additional requirements in relation to information about neighbouring establishments, in particular in view of possible domino effects, and other external risks and hazards, such as environmental risks and hazards (point C of Part 1 and point A of Part 4); about lessons learned from past accidents (point C; Part 4); and about equipment to limit the consequences of major accidents (point A, part 5).

Annex III relates to the information on management systems and organisational factors to be covered in the safety report. The main changes are to remove the references to the MAPP, to clarify that the safety management system should be proportionate and that internationally recognised systems such as ISO and OSHAS should be taken into account; and to include references to safety culture. Another change is a reference to the possible use of safety performance indicators, which can be an effective tool to improve safety and assist in monitoring, assessment and enforcement, and to necessary changes to be made following audit and review of safety management systems.

Annex IV sets out the information to be included in the internal and external emergency plans required under Article 11. It is identical to Annex IV in Directive 96/82/EC save that the scope of the external emergency plan is extended to make clearer references to the need to address possible domino effects and off-site mitigatory actions to address major accident scenarios impacting on the environment.

Annex V lists the information to be provided to the public in accordance with Article 13. The main changes to the list of requirements are in Part 1, for all establishments, the inclusion of the following: details of information about major-accident hazards as

set out in the MAPP or safety report (point 5), inspections carried out (point 6) and where further information can be obtained (point 7); and in Part 2, for upper-tier establishments, the inclusion of the main types of major-accident scenarios (point 1), appropriate information from the external emergency plan (point 5) and where appropriate transboundary impacts (point 6).

Annex VI is essentially the same as that in the current Directive, listing the criteria for reporting accidents. The only change is to bring more accidents within the reporting system by reducing the quantity threshold laid down in section 1.1 to 1% of the upper-tier threshold.

Annex VII will list the criteria for granting derogations pursuant to article 4. In accordance with Article 4(4), these criteria shall be adopted by delegated act by 30 June 2013.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the control of major-accident hazards involving dangerous substances

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the Commission¹,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Directive 96/82/EC of 9 December 2006 on the control of major-accident hazards involving dangerous substances activities⁴ lays down rules for the prevention of major accidents which might result from certain industrial activities and with the limitation of their consequences for human health and the environment.
- (2) Major accidents often have serious consequences, as evidenced by accidents like Seveso, Bhopal, Schweizerhalle, Enschede, Toulouse and Buncefield. Moreover the impact can extend beyond national borders. This underlines the need to ensure that appropriate precautionary action is taken to ensure a high level of protection throughout the Union for citizens, communities and the environment.
- (3) Directive 96/82/EC has been instrumental in reducing the likelihood and consequences of such accidents thereby leading to better protection levels throughout the Union. A review of the Directive has confirmed that overall the existing provisions are fit for purpose and that no major changes are required. However, the system established by Directive 96/82/EC should be adapted to changes to the Union system of classification of dangerous substances to which it refers. In addition, a number of other provisions should be clarified and updated.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ L 10, 14.1.1997, p. 13.

- (4) It is therefore appropriate to replace Directive 96/82/EC to ensure that that existing levels of protection are maintained and further improved, by making the provisions more effective and efficient, and where possible reducing unnecessary administrative burdens by streamlining or simplification without compromising safety. At the same time, the new provisions should be clear, coherent and easy to understand to help improve implementation and enforceability.
- (5) The Convention on the Transboundary Effects of Industrial Accidents of the United Nations Economic Commission for Europe, which was approved on behalf of the Union by 98/685/EC: Council Decision of 23 March 1998 concerning the conclusion of the Convention on the Transboundary Effects of Industrial Accidents⁵, provides for measures regarding the prevention of, preparedness for and response to industrial accidents capable of causing transboundary effects as well as for international cooperation in this field. Directive 96/82/EC implements the Convention within Union law.
- (6) Major accidents can have consequences beyond frontiers, and the ecological and economic cost of an accident is borne not only by the establishment affected but also by the Member state concerned. It is therefore necessary to take measures ensuring a high level of protection throughout the Union.
- (7) The provisions of this Directive should apply without prejudice to provisions of Union law as regards health and safety at work.
- (8) Certain industrial activities should be excluded from the scope of this Directive due to their specific characteristics. These activities are subject to other legislation at Union or national level providing an equivalent level of safety. The Commission should however continue to ensure that there are no significant gaps in the existing regulatory framework, in particular as regards new and emerging risks from other activities, and take appropriate action where necessary.
- (9) Annex I to Directive 96/82/EC lists the dangerous substances falling within its scope, inter alia by reference to certain provisions of Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances⁶ as well as Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations⁷. Those Directives have been replaced by Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures⁸, which implements within the Union the Globally Harmonised System of Classification and Labelling of Chemicals (GHS) that has been adopted at the international level, within the structure of the United Nations. That Regulation introduces new hazard classes and categories only partially corresponding to those used under the previous arrangements. Annex I

⁵ OJ L 326, 3.12.1998, p. 1.

⁶ OJ 196, 16.8.1967, p. 1.

⁷ OJ L 200, 30.7.1999, p. 1.

⁸ OJ L 353, 31.12.2008, p. 1.

to Directive 96/82/EC therefore needs to be amended to align it to that Regulation while maintaining the existing levels of protection of that Directive.

- (10) Flexibility is needed in order to be able to amend Annex I to deal with any unwanted effects from the alignment to Regulation (EC) No 1272/2008 and subsequent adaptations to that Regulation having an impact on the classification of dangerous substances. On the basis of harmonised criteria to be developed, derogations could be granted where notwithstanding their hazard classification, substances do not present a major accident hazard. There should also be a corresponding correction mechanism to deal with substances that need to be included within the scope of this Directive because of their major accident hazard potential.
- (11) Operators should have a general obligation to take all necessary measures to prevent major accidents and to mitigate their consequences. Where dangerous substances are present in establishments above certain quantities the operator should provide the competent authority with sufficient information to enable it to identify the establishment, the dangerous substances present and the potential dangers. The operator should also draw up and send to the competent authority a major-accident prevention policy setting out the operator's overall approach and measures, including appropriate safety management systems, for controlling major-accident hazards.
- (12) In order to reduce the risk of domino effects, where establishments are sited in such a way or so close together as to increase the probability and possibility of major accidents, or aggravate their consequences, operators should cooperate in the exchange of appropriate information and in informing the public, including neighbouring establishments that could be affected.
- (13) In order to demonstrate that all that is necessary has been done to prevent major accidents, to prepare contingency plans and response measures, the operator should, in the case of establishments where dangerous substances are present in significant quantities, provide the competent authority with information in the form of a safety report containing details of the establishment, the dangerous substances present, the installation or storage facilities, possible major accident scenarios and risks analysis, prevention and intervention measures and the management systems available, in order to prevent and reduce the risk of major accidents and to enable the necessary steps to be taken to limit the consequences thereof.
- (14) To provide against emergencies, in the case of establishments where dangerous substances are present in significant quantities, it is necessary to establish internal and external emergency plans and to create systems to ensure those plans are tested and revised as necessary and implemented in the event of a major accident or the likelihood thereof. The staff of an establishment should be consulted on the internal emergency plan and the public must be consulted on the external emergency plan.
- (15) In order to provide greater protection for residential areas, areas of substantial public use and the environment, including areas of particular natural interest or sensitivity, it is necessary for land-use or other relevant policies applied in the Member States to take account of the need, in the long term, to keep a suitable distance between such areas and establishments presenting such hazards and, where existing establishments are concerned, to take account of additional technical measures so that the risk to persons is not increased. Sufficient information about the risks and technical advice on

these risks should be taken into account when decisions are taken. Where possible, to reduce administrative burdens, procedures should be integrated with those under other Union legislation.

- (16) In order to promote access to information on the environment, in accordance with the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters, which was approved on behalf of the Union by Council Decision 2005/370/EC of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters⁹, the level and quality of information to the public should be improved. In particular, persons likely to be affected by a major accident should be given sufficient information to inform them of the correct action to be taken in that event. In addition to providing information in an active way, without the public having to submit a request, and without precluding other forms of dissemination, it should also be made available permanently and kept up to date on the internet. At the same time there should be appropriate confidentiality safeguards, to address security-related concerns, among others.
- (17) The way information is managed should be in line with the Shared Environmental Information System (SEIS) initiative introduced by Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Towards a Shared Environmental Information System (SEIS)¹⁰. It should also be in line with Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)¹¹ and its implementing rules, aimed at enabling the sharing of environmental spatial information among public sector organisations and better facilitating public access to spatial information across the Union. Information should be held on a publicly available database at Union level, which will also facilitate monitoring and reporting on implementation.
- (18) In line with the Aarhus Convention, effective public participation in decision-making is necessary to enable the public to express, and the decision-maker to take account of, opinions and concerns that may be relevant to those decisions, thereby increasing the accountability and transparency of the decision-making process and contributing to public awareness of environmental issues and support for the decisions taken. Members of the public concerned should have access to justice in order to contribute to the protection of the right to live in an environment that is adequate for personal health and well-being.
- (19) In order to ensure that adequate response measures are taken if a major accident occurs, the operator should immediately inform the competent authorities and communicate the information necessary for them to assess the impact of that accident.
- (20) In order to provide for information exchange and to prevent future accidents of a similar nature, Member States should forward information to the Commission

⁹ OJ L 124, 17.5.2005, p. 1.

¹⁰ COM(2008) 46 final.

¹¹ OJ L107, 25.4.2007, p. 1.

regarding major accidents occurring in their territory, so that the Commission can analyze the hazards involved, and operate a system for the distribution of information concerning, in particular, major accidents and the lessons learned from them. This information exchange should also cover 'near misses' which Member States regard as being of particular technical interest for preventing major accidents and limiting their consequences.

- (21) Member States should determine the competent authorities responsible for ensuring that operators fulfil their obligations. Where necessary, one authority should take the lead in coordinating the different authorities or other bodies involved. The competent authorities and the Commission should cooperate in activities in support of implementation such as the development of appropriate guidance and exchanges of best practice. To avoid unnecessary administrative burden, where appropriate information obligations should be integrated with those under other relevant Union legislation.
- (22) Member States should ensure that competent authorities take the necessary measures in the event of non-compliance with this Directive. In order to ensure effective implementation and enforcement, there should be a system of inspections, including a programme of routine inspections at regular intervals and non-routine inspections. Where appropriate, inspections should be coordinated with those under other Union legislation. It is important that sufficient qualified inspectors are available. Competent authorities should provide appropriate support using tools and mechanisms for exchanging experience and consolidating knowledge, including at Union level.
- (23) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty in respect of the adoption of criteria for derogations and amendments to the Annexes of this Directive.
- (24) Member States should lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and ensure that they are implemented. The penalties should be effective, proportionate and dissuasive.
- (25) Since the objectives of the Directive, namely to ensure a high level of protection of human health and the environment, cannot be sufficiently achieved by Member States and can, therefore, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

This Directive lays down rules for the prevention of major accidents which involve dangerous substances, and the limitation of their consequences for human health and the environment, with a view to ensuring high levels of protection throughout the Union in a consistent and effective manner.

Article 2

Scope

1. This Directive shall apply to establishments where dangerous substances are present in quantities equal to or in excess of the quantities listed in Parts 1 and 2 of Annex I.
2. This Directive shall not apply to any of the following:
 - (a) military establishments, installations or storage facilities;
 - (b) hazards created by ionizing radiation;
 - (c) the transport of dangerous substances and intermediate temporary storage by road, rail, internal waterways, sea or air, outside the establishments covered by this Directive, including loading and unloading and transport to and from another means of transport at docks, wharves or marshalling yards;
 - (d) the transport of dangerous substances in pipelines, including pumping stations, outside establishments covered by this Directive;
 - (e) the exploitation (exploration, extraction and processing) of minerals in mines, quarries, or by means of boreholes, with the exception of underground gas storage in natural strata and disused mines and of chemical and thermal processing operations and storage related to those operations which involve dangerous substances, as defined in Annex I;
 - (f) the offshore exploration and exploitation of minerals, including hydrocarbons;
 - (g) waste land-fill sites, including underground waste storage, with the exception of operational tailings disposal facilities, including tailing ponds or dams, containing dangerous substances as defined in Annex I, in particular when used in connection with the chemical and thermal processing of minerals;
 - (h) substances listed in Part 3 of Annex I.

Article 3

Definitions

For the purposes of this Directive the following definitions shall apply:

1. 'establishment' means the whole location under the control of an operator where dangerous substances falling within the scope of this Directive are present in one or more installations, including common or related infrastructures or activities;
2. 'lower-tier establishment' means an establishment where dangerous substances are present in quantities equal to or in excess of the quantities listed in column 2 of Part 1 of Annex I and column 2 of Part 2 of Annex I, , but less than the quantities listed in column 3 of Part 1 of Annex I, and column 3 of Part 2 of Annex I;

3. 'upper-tier establishment' means an establishment where dangerous substances are present in quantities equal to or in excess of the quantities listed in column 3 of Part 1 of Annex I, and column 3 of Part 2 of Annex I;
4. 'new establishment' means an establishment that is newly constructed or has yet to enter into operation;
5. 'existing establishment' means an establishment that fell within the scope of Directive 96/82/EC;
6. 'subsequent establishment' means an establishment that was operating prior to the entry into force of this Directive but was not previously covered by Directive 96/82/EC and subsequently falls within the scope of this Directive;
7. 'installation' means a technical unit within an establishment in which dangerous substances are produced, used, handled or stored, including underground, and includes all the equipment, structures, pipework, machinery, tools, private railway sidings, docks, unloading quays serving the installation, jetties, warehouses or similar structures, floating or otherwise, necessary for the operation of the installation;
8. 'operator' means any natural or legal person who operates or controls an establishment or installation or, where this is provided for by national legislation, to whom decisive economic power over the technical functioning of the establishment or installation has been delegated;
9. 'dangerous substance' means a substance or mixture listed in Part 1 or Part 2 of Annex 1 and present as a raw material, product, by-product, residue or intermediate, including those substances which it is reasonable to suppose may be generated in the event of accident;
10. 'mixture' means a mixture or solution composed of two or more substances;
11. 'presence of dangerous substances' means the actual or anticipated presence of dangerous substances in the establishment, or the presence of dangerous substances which it is believed may be generated during loss of control of an industrial chemical process, in quantities equal to or in excess of the thresholds set out in Parts 1 and 2 of Annex I.
12. 'major accident' means an occurrence such as a major emission, fire, or explosion resulting from uncontrolled developments in the course of the operation of any establishment covered by this Directive, and leading to serious danger to human health, property or the environment, immediate or delayed, inside or outside the establishment, and involving one or more dangerous substances;
13. 'hazard' means the intrinsic property of a dangerous substance or physical situation, with a potential for creating damage to human health or the environment;
14. 'risk' means the likelihood of a specific effect occurring within a specified period or in specified circumstances;

15. 'storage' means the presence of a quantity of dangerous substances for the purposes of warehousing, depositing in safe custody or keeping in stock;
16. 'the public' means one or more natural or legal persons and, in accordance with national law or practice, their associations, organisations or groups;
17. 'the public concerned' means the public affected or likely to be affected, or having an interest in the taking a decision on any of the matters covered by Article 14(1), including non-governmental organizations promoting environmental protection and meeting any applicable requirements under national law ;
18. 'inspection' means all actions, including site visits, checks of internal measures, systems and reports and follow-up documents, and any necessary follow-up, undertaken by or on behalf of the competent authority to check and promote compliance of establishments with the requirements of this Directive.

Article 4

Derogation and safeguard clauses

1. Where it is demonstrated, on the basis of the criteria referred to in paragraph 4 of this Article, that particular substances covered by Parts 1 or 2 of Annex I are incapable of creating a major accident hazard, in particular due to their physical form, properties, classification, concentration or generic packaging, the Commission may list those substances in Part 3 of Annex I by delegated acts in accordance with Article 24.
2. Where a Member State considers that a dangerous substance listed in Parts 1 or 2 of Annex I does not present a major accident hazard and may qualify for inclusion in Part 3 of Annex I in accordance with paragraph 1 of this Article, it shall notify the Commission.

The Commission shall inform the forum referred to in Article 17(2) of such notifications.

3. Where it is demonstrated to the satisfaction of a competent authority, on the basis of the criteria referred to in paragraph 4 of this Article, that particular substances present at an individual establishment or any part thereof and listed in Parts 1 or 2 of Annex I are incapable of creating a major accident hazard, due to the specific conditions pertaining in the establishment such as the nature of the packaging and containment of the substance or the location and quantities involved, the Member State of the competent authority may decide not to apply the requirements set out in Articles 7 to 19 of this Directive to the establishment concerned.

In the cases referred to in the first subparagraph the Member State concerned shall provide to the Commission a list of the establishments concerned, including the inventory of dangerous substances concerned. The Member State concerned shall give reasons for the exclusion.

The Commission shall forward annually the lists referred to in the second subparagraph of this paragraph to the forum referred to in Article 17(2) for information.

4. By 30 June 2013, the Commission shall adopt delegated acts in accordance with Article 24, to establish criteria to be used for the purposes of paragraphs 1 and 3 of this Article respectively, and to amend Annex VII accordingly.
5. Where a Member State considers that a dangerous substance not listed in Parts 1 or 2 of Annex I, presents a major-accident hazard, it may take appropriate measures and shall notify the Commission.

The Commission shall inform the forum referred to in Article 17(2) of notifications made pursuant to the first subparagraph of this paragraph.

Where appropriate, the Commission may list the substances referred to in the first subparagraph of this paragraph in Part 1 or Part 2 of Annex I by delegated acts in accordance with Article 24.

Article 5

General obligations of the operator

1. Member States shall ensure that the operator is obliged to take all measures necessary to prevent major accidents and to limit their consequences for human health and the environment.
2. Member States shall ensure that the operator is required to prove to the competent authority referred to in Article 17 (hereinafter ‘competent authority’), at any time, in particular for the purposes of the inspections and controls referred to in Article 19, that the operator has taken all the measures necessary as specified in this Directive.

Article 6

Notification

1. Member States shall require the operator to send the competent authority a notification containing the following details:
 - (a) the name or trade name of the operator and the full address of the establishment concerned;
 - (b) the registered place of business of the operator, with the full address;
 - (c) the name or position of the person in charge of the establishment, if different from point (a);
 - (d) information sufficient to identify the dangerous substances or category of substances involved;

- (e) the quantity and physical form of the dangerous substance or substances involved;
 - (f) the activity or proposed activity of the installation or storage facility;
 - (g) the immediate environment of the establishment, elements liable to cause a major accident or to aggravate the consequences thereof, including details of neighbouring establishments, whether or not those are covered by this Directive, as well as other sites, areas and developments that could increase the risk or consequences of a major accident and of domino effects.
2. The notification shall be sent to the competent authority within the following time-limits:
- (a) for new establishments, a reasonable period of time prior to the start of construction or operation,
 - (b) for existing establishments, one year from the date laid down in the second subparagraph of Article 28(1),
 - (c) for subsequent establishments, one year from the date on which this Directive applies to the establishment concerned.
3. Paragraphs 1 and 2 of this Article shall not apply to existing establishments if the operator has already sent a notification to the competent authority under the requirements of national law at the date laid down in the second subparagraph of Article 28(1), and the information contained therein complies with paragraph 1 of this Article and remains unchanged.
4. The operator shall immediately inform the competent authority of the following events:
- (a) any significant increase in the quantity or significant change in the nature or physical form of the dangerous substance present, as indicated in the notification provided by the operator pursuant to paragraph 1, or any change in the processes employing it,
 - (b) modification of an establishment or an installation which could have significant repercussions on major accident hazards,
 - (c) permanent closure of the installation.
5. Without prejudice to paragraph 4, the operator shall periodically review and where necessary update the notification, at least every five years. The operator shall send the updated notification to the competent authority without delay.

Article 7

Major-accident prevention policy

1. Member States shall require the operator to draw up a document setting out the major-accident prevention policy (hereinafter: "MAPP") and to ensure that it is properly implemented. The MAPP shall be established in writing. It shall be designed to guarantee a high level of protection for human health and the environment. It shall be proportionate to the major-accident hazards. It shall include the operator's overall aims and principles of action, the role and responsibility of management and shall address safety culture with respect to the control of major-accident hazards.
2. The MAPP shall be sent to the competent authority within the following time-limits:
 - (a) for new establishments, a reasonable period of time prior to the start of construction or operation;
 - (b) for existing establishments, one year from the date laid down in the second subparagraph of Article 28(1)
 - (c) for subsequent establishments, one year from the date on which this Directive applies to the establishment concerned.
3. Paragraphs 1 and 2 of this Article shall not apply to existing establishments if the operator has already established the MAPP in writing and sent it to the competent authority under the requirements of national law at the date laid down in the second subparagraph of Article 28(1), and the information contained therein complies with paragraph 1 and remains unchanged.
4. The operator shall periodically review and where necessary update the MAPP, at least every five years. The updated MAPP shall be sent to the competent authority without delay.

Article 8

Domino effect

1. Member States shall ensure that the competent authority, using the information received from the operators in compliance with Articles 6 and 9 or through inspections pursuant to Article 19, identifies all lower-tier and upper-tier establishments or groups of establishments where the likelihood and the possibility or consequences of a major accident may be increased because of the location and the proximity of such establishments, and their inventories of dangerous substances.
2. Member States shall ensure that operators of the establishments identified in accordance with paragraph 1:
 - a) exchange suitable information in an appropriate manner to enable those establishments to take account of the nature and extent of the overall hazard of

a major accident in their MAPP, safety management systems, safety reports and internal emergency plans;

- b) cooperate in informing the public and neighbouring establishments that fall outside the scope of this Directive, and in supplying information to the authority responsible for the preparation of external emergency plans.

Article 9

Safety report

1. Member States shall require the operator of an upper-tier establishment to produce a safety report for the purposes of:
 - (a) demonstrating that a MAPP and a safety management system for implementing it have been put into effect in accordance with the information set out in Annex III;
 - (b) demonstrating that major-accident hazards and possible major-accident scenarios have been identified and that the necessary measures have been taken to prevent such accidents and to limit their consequences for human health and the environment;
 - (c) demonstrating that adequate safety and reliability have been taken into account in the design, construction, operation and maintenance of any installation, storage facility, equipment and infrastructure connected with its operation which are linked to major-accident hazards inside the establishment;
 - (d) demonstrating that internal emergency plans have been drawn up and supplying information to enable the external emergency plan to be drawn up;
 - (e) providing sufficient information to the competent authorities to enable decisions to be made regarding the siting of new activities or developments around existing establishments.
2. The safety report shall contain at least the data and information listed in Annex II. It shall name the relevant organisations involved in the drawing up of the report. It shall also contain an updated inventory of the dangerous substances present in the establishment.
3. The safety report shall be sent to the competent authority within the following time-limits:
 - (a) for new establishments, a reasonable period of time prior to the start of construction or operation;
 - (b) for existing establishments, one year from the date laid down in the second subparagraph of Article 28(1)
 - (c) for subsequent establishments, two years from the date on which this Directive applies to the establishment concerned..

4. Paragraphs 1, 2 and 3 of this Article shall not apply to existing establishments if the operator has already sent the safety report to the competent authority under the requirements of national law at the date laid down in Article 28(1), and the information contained therein complies with paragraphs 1 and 2 of this Article and remains unchanged.

5. The operator shall periodically review and where necessary update the safety report at least every five years.

The operator shall also review and where necessary update the safety report at any other time at the initiative of the operator or the request of the competent authority, where justified by new facts or by new technological knowledge about safety matters, including knowledge arising from analysis of accidents or, as far as possible, 'near misses', and by developments in knowledge concerning the assessment of hazards.

The updated safety report shall be sent to the competent authority without delay.

6. Before the operator commences construction or operation, or in the cases referred to in points (b) and (c) of paragraph 3 and in paragraph 5, the competent authority shall within a reasonable period of receipt of the report:

(a) communicate the conclusions of its examination of the safety report to the operator,

(b) prohibit the bringing into use, or the continued use, of the establishment concerned, in accordance with Article 18.

7. Member States may require lower-tier establishments to implement the MAPP by means of a safety management system proportionate to the major-accident hazards, and to the complexity of the organization or activities of the establishment.

Article 10

Modification of an installation, an establishment or a storage facility

In the event of the modification of an installation, establishment, storage facility, or process or of the nature or quantity of dangerous substances which could have significant repercussions on major-accident hazards, the Member States shall ensure that the operator:

(a) reviews and where necessary revises the MAPP;

(b) reviews, and where necessary revises, the safety report and the safety management systems and procedures referred to in Article 9 and informs the competent authority of the details of that revision in advance of that modification.

Article 11

Emergency plans

1. Member States shall ensure that, for all upper-tier establishments:
 - (a) the operator draws up an internal emergency plan for the measures to be taken inside the establishment;
 - (b) the operator supplies the necessary information to the competent authorities, to enable the latter to draw up external emergency plans;
 - (c) the authorities designated for that purpose by the Member State draw up an external emergency plan for the measures to be taken outside the establishment within one year following receipt of the information from the operator pursuant to point (b).
2. Operators shall comply with the obligations set out in points (a) and (b) of paragraph 1 within the following time limits:
 - (a) for new establishments, prior to the start of operation;
 - (b) for existing establishments, one year from the date laid down in the second subparagraph of Article 28(1) unless the internal emergency plan drawn up under the requirements of national law at that date, and the information contained therein, complies with this Article and remains unchanged.
 - (c) for subsequent establishments, one year from the date on which this Directive applies to the establishment concerned.
3. The emergency plans shall be established with the following objectives:
 - (a) containing and controlling incidents so as to minimize the effects, and to limit damage to human health, the environment and property,
 - (b) implementing the measures necessary to protect human health and the environment from the effects of major accidents,
 - (c) communicating the necessary information to the public and to the services or authorities concerned in the area,
 - (d) providing for the restoration and clean-up of the environment following a major accident.

Emergency plans shall contain the information set out in Annex IV.

4. Without prejudice to the obligations of the competent authorities, Member States shall ensure that the internal emergency plans provided for in this Directive are drawn up in consultation with the personnel working inside the establishment, including long-term relevant subcontracted personnel, and that the public is consulted on external emergency plans when they are established or updated.

Member States shall ensure that consultation with the public is in accordance with Article 14.

5. Member States shall ensure that internal and external emergency plans are reviewed, tested, and where necessary revised and updated by the operators and designated authorities respectively at suitable intervals of no longer than three years. The review shall take into account changes occurring in the establishments concerned or within the emergency services concerned, new technical knowledge, and knowledge concerning the response to major accidents.

With regard to external emergency plans, Member States shall take into account the need to facilitate enhanced cooperation in civil protection assistance in major emergencies.

6. Member States shall ensure that emergency plans are put into effect without delay by the operator and, if necessary, by the competent authority designated for this purpose when a major accident occurs, or when an uncontrolled event occurs which by its nature could reasonably be expected to lead to a major accident.
7. The competent authority may decide, in view of the information contained in the safety report, that the requirement to produce an external emergency plan under paragraph 1 shall not apply.

The competent authority shall give reasons for its decision.

Article 12

Land-use planning

1. Member States shall ensure that the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment are taken into account in their land-use policies or other relevant policies. They shall pursue those objectives through controls on:
 - (a) the siting of new establishments;
 - (b) modifications to existing establishments covered by Article 10;
 - (c) new developments including transport links, locations frequented by the public and residential areas in the vicinity of existing establishments, where the siting or developments may increase the risk or consequences of a major accident.
2. Member States shall ensure that their land-use or other relevant policies and the procedures for implementing those policies take account of the need, in the long term:
 - (a) to maintain appropriate safety distances between establishments covered by this Directive and residential areas, buildings and areas of public use, major transport routes as far as possible, and recreational areas;

- (b) to protect areas of particular natural sensitivity or interest in the vicinity of establishments covered by this Directive, through appropriate safety distances or other appropriate measures where necessary;
 - (c) in the case of existing establishments, to take additional technical measures in accordance with Article 5 so as not to increase the risks to human health and the environment.
3. Member States shall ensure that all competent authorities and planning authorities responsible for decisions in this area set up appropriate consultation procedures to facilitate implementation of the policies established under paragraph 1. The procedures shall be designed to ensure that operators provide sufficient information on the risks arising from the establishment and that technical advice on those risks is available, either on a case-by-case or on a generic basis, when decisions are taken.
- Member States shall ensure that operators of lower-tier establishments provide, at the request of the competent authority, sufficient information on the risks arising from the establishment necessary for land-use planning purposes.
4. The requirements of paragraphs 1, 2 and 3 shall apply without prejudice to the provisions of Council Directive 85/337/EEC¹² and Directive 2001/42/EC of the European Parliament and of the Council¹³. Member States shall where possible and appropriate provide for coordinated or joint procedures in order to fulfil the requirements of this Article and the requirements of those Directives, inter alia, to avoid duplication of assessment or consultations.

Article 13

Information to the public

1. Member States shall ensure that the information referred to in Annex V is permanently available to the public, including in an electronic format. The information shall be reviewed and where necessary updated at least once a year.
2. For upper-tier establishments, Member States shall also ensure that:
 - a) all persons liable to be affected by a major accident receive regularly and in the most appropriate form, without their having to request it, information on safety measures and requisite behaviour in the event of an accident;
 - b) the safety report is made available to the public upon request subject to Article 21(3); where Article 21(3) applies, an amended report in the form of a non-technical summary, which shall include at least general information on major-accident hazards, potential effects and the requisite behaviour in the event of an accident, shall be made available;

¹² OJ L 175, 5.7.1985, p.40
¹³ OJ L 197, 21.7.2001, p.30

- c) the inventory of dangerous substances is made available to the public concerned upon request subject to Article 21(3).

The information to be supplied under point (a) of this paragraph shall include at least the information referred to in Annex V. That information shall likewise be supplied to all establishments serving the public, including schools and hospitals, and to all neighbouring establishments in the case of establishments covered by Article 8. Member States shall ensure that the information is supplied and that it is periodically reviewed and updated at least every five years.

3. Requests for access to the information referred to in paragraph 2(a), (b) and (c) shall be handled in accordance with Articles 3 and 5 of Directive 2003/4/EC of the European Parliament and of the Council¹⁴.
4. Member States shall, with respect to the possibility of a major accident with transboundary effects originating in an establishment under Article 9, provide sufficient information to the potentially affected Member States so that all relevant provisions contained in Articles 11, 12 and this Article can be applied, where applicable, by the potentially affected Member States.
5. Where the Member State concerned has decided that an establishment close to the territory of another Member State is incapable of creating a major-accident hazard beyond its boundary for the purposes of Article 11(6) and is not therefore required to produce an external emergency plan under Article 11(1), it shall so inform the other Member State.
6. This Article shall apply subject to the provisions of Article 21.

Article 14

Public consultation and participation in decision-making

1. Member States shall ensure that the public is able to give its opinion on the following matters:
 - (a) planning for new establishments pursuant to Article 12;
 - (b) modifications to existing establishments under Article 10, where such modifications are subject to obligations provided for in this Directive as to planning;
 - (c) new developments around existing establishments where the siting or developments may increase the risk or consequences of a major accident pursuant to Article 12;
 - (d) external emergency plans pursuant to Article 11(1)(c)

¹⁴ OJ L 41, 14.2.2003, p. 26.

2. The public shall be informed by public notices or other appropriate means, including electronic media where available, of the following matters early in the procedure for the taking of a decision or, at the latest, as soon as the information can reasonably be provided:
 - (a) the matters set out in paragraph 1;
 - (b) where applicable, the fact that a decision is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with Article 13(4);
 - (c) details of the competent authority responsible for taking the decision, that from which relevant information can be obtained, that to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;
 - (d) the nature of possible decisions or, where there is one, the draft decision;
 - (e) an indication of the times and places where, or means by which, the relevant information will be made available;
 - (g) details of the arrangements for public participation and consultation made pursuant to paragraph 5.
3. Member States shall ensure that, within appropriate time-frames, the following is made available to the public concerned:
 - (a) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public concerned was informed in accordance with paragraph 2;
 - (b) in accordance with the provisions of Directive 2003/4/EC information other than that referred to in paragraph 2 which is relevant for the decision in question and which only becomes available after the public concerned was informed in accordance with paragraph 2.
4. Member States shall ensure that the public concerned is entitled to express comments and opinions to the competent authority before a decision is taken and that the results of the consultations held pursuant to paragraph 1 are duly taken into account in the taking of a decision.
5. The detailed arrangements for informing the public and consulting the public concerned shall be determined by the Member States.

Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to the provisions of this Article.

6. Member States shall ensure that when the relevant decisions are taken, the competent authority shall make available to the public:

- (a) the content of the decision and the reasons on which it is based, including any subsequent updates;
- (b) the results of the consultations held before the decision was taken and an explanation of how they were taken into account in that decision.

Article 15

Information to be supplied by the operator following a major accident

1. Member States shall ensure that, as soon as practicable following a major accident, the operator shall be required, using the most appropriate means:
 - (a) to inform the competent authorities;
 - (b) to provide them with the following information as soon as it becomes available:
 - (i) the circumstances of the accident;
 - (ii) the dangerous substances involved;
 - (iii) the data available for assessing the effects of the accident on human health and the environment;
 - (iv) the emergency measures taken;
 - (c) to inform them of the steps envisaged:
 - (i) to alleviate the medium- and long-term effects of the accident;
 - (ii) to prevent any recurrence of such an accident;
 - (d) to update the information provided if further investigation reveals additional facts which alter that information or the conclusions drawn.
2. Member States shall require the competent authority:
 - (a) to ensure that any urgent, medium- and long-term measures which may prove necessary are taken;
 - (b) to collect, by inspection, investigation or other appropriate means, the information necessary for a full analysis of the technical, organizational and managerial aspects of the major accident;
 - (c) to take appropriate action to ensure that the operator takes any necessary remedial measures; and
 - (d) to make recommendations on future preventive measures.

Article 16

Information to be supplied by the Member States following a major accident

1. For the purpose of prevention and mitigation of major accidents, Member States shall inform the Commission as soon as practicable of major accidents meeting the criteria of Annex VI which have occurred within their territory. They shall provide it with the following details:
 - (a) the Member State, the name and address of the authority responsible for the report;
 - (b) the date, time and place of the major accident, including the full name of the operator and the address of the establishment involved;
 - (c) a brief description of the circumstances of the accident, including the dangerous substances involved, and the immediate effects on human health and the environment;
 - (d) a brief description of the emergency measures taken and of the immediate precautions necessary to prevent recurrence.
2. Member States shall inform the Commission of the result of their analysis and recommendations, as soon as practicable and at the latest within one year of the date of the accident, using the database referred to in Article 20(5).

Reporting of the information referred to in the first subparagraph by Member States may be delayed only to allow for the completion of legal proceedings where such reporting may affect those proceedings.

3. The Commission shall establish a report form in close cooperation with the Member States. Member States shall use that report form when providing the information referred to in paragraph 1 and paragraph 2.
4. Member States shall inform the Commission of the name and address of any body which might have relevant information on major accidents and which is able to advise the competent authorities of other Member States which have to intervene in the event of such an accident.

Article 17

Competent authority

1. Without prejudice to the operator's responsibilities, Member States shall set up or appoint the competent authority or authorities responsible for carrying out the duties laid down in this Directive and, if necessary, bodies to assist the competent authority or authorities at technical level. Member States which set up or appoint more than one competent authority shall appoint one competent authority to take responsibility for ensuring that the procedures for carrying out their duties are coordinated.

2. The Commission shall regularly convene a forum composed of representatives of the competent authorities of the Member States. The competent authorities and the Commission shall cooperate in activities in support of implementation of this Directive.
3. Member States shall ensure that competent authorities accept equivalent information submitted by operators in accordance with other Union legislation, which fulfils any of the requirements of this Directive, for the purposes of this Directive. In such cases the competent authority shall ensure that the requirements of this Directive are complied with.

Article 18

Prohibition of use

1. Member States shall prohibit the use or bringing into use of any establishment, installation or storage facility, or any part thereof where the measures taken by the operator for the prevention and mitigation of major accidents are seriously deficient.

Member States may prohibit the use or bringing into use of any establishment, installation or storage facility, or any part thereof if the operator has not submitted the notification, reports or other information required by this Directive within the specified period.
2. Member States shall ensure that operators may appeal against a prohibition order by a competent authority under paragraph 1 to an appropriate body determined by national law and procedures.

Article 19

Inspections

1. Member States shall ensure that the competent authorities organise a system of inspections.
2. Inspections shall be appropriate to the type of establishment concerned. They shall not be dependent upon receipt of the safety report or any other report submitted. They shall be sufficient for a planned and systematic examination of the systems being employed at the establishment, whether of a technical, organisational or managerial nature, so as to ensure in particular that:
 - (a) the operator can demonstrate that he has taken appropriate measures, in connection with the various activities involved in the establishment, to prevent major accidents;
 - (b) the operator can demonstrate that he has provided appropriate means for limiting the consequences of major accidents, on site and off site;

- (c) the data and information contained in the safety report, or any other report submitted, adequately reflects the conditions in the establishment;
 - (d) information has been supplied to the public pursuant to Article 13(1).
3. Member States shall ensure that all establishments are covered by an inspection plan at national, regional or local level and shall ensure that this plan is regularly reviewed and, where appropriate, updated.

Each inspection plan shall include the following:

- (a) a general assessment of relevant safety issues;
 - (b) the geographical area covered by the inspection plan;
 - (c) a list of the establishments and installations covered by the plan;
 - (d) a list of groups of establishments with possible domino-effects pursuant to Article 8, taking into account neighbouring establishments outside the scope of this Directive;
 - (e) a list of establishments where particular external risks or hazard sources could increase the risk or consequences of a major accident;
 - (f) procedures for routine inspections, including the programmes for such inspections pursuant to paragraph 4;
 - (g) procedures for non-routine inspections pursuant to paragraph 6;
 - (h) provisions on the co-operation between different inspection authorities.
4. Based on the inspections plans referred to in paragraph 3, the competent authority shall regularly draw up programmes for routine inspections for all establishments including the frequency of site visits for different types of establishments.

The period between two site visits shall be based on a systematic appraisal of the major-accident hazards of the establishments concerned and shall not exceed one year for upper-tier establishments and three years for lower-tier establishments. If an inspection has identified an important case of non-compliance with this Directive, an additional site visit shall be carried out within six months.

5. The systematic appraisal of the hazards shall be based on at least the following criteria:
- (a) the potential and actual impacts of the establishments concerned on human health and the environment taking into account the major-accident hazards, the sensitivity of the local environment and the risk of accidents;
 - (b) the record of compliance with the requirements of this Directive;

- (c) participation of the operator in the Union eco-management and audit scheme (EMAS), pursuant to Regulation (EC) No 1221/2009 of the European Parliament and of the Council¹⁵.

Where appropriate, relevant findings of inspections under other Union legislation shall also be taken into account.

6. Non-routine inspections shall be carried out to investigate serious complaints, serious accidents and near-misses, incidents and occurrences of non-compliance as soon as possible.
7. Within two months after each site visit, the competent authority shall communicate the conclusions of the visit and all the necessary actions identified to the operator. The competent authority shall ensure that the operator takes all these necessary actions within a reasonable period after receipt of the communication.
8. Inspections shall whenever possible be coordinated with inspections under other Union legislation and combined, where appropriate.
9. Member States shall ensure that sufficient staff are available with the skills and qualifications needed to carry out inspections effectively. Member States shall encourage the competent authorities to provide mechanisms and tools for exchanging experience and consolidating knowledge, and to participate in such mechanisms at Union level where appropriate.
10. Member States shall ensure that operators provide the competent authorities with all necessary assistance to enable those authorities to carry out any site visits and to gather any information necessary for the performance of their duties for the purposes of this Directive, in particular to allow the authority to fully assess the possibility of a major accident and to determine the scope of possible increased probability or aggravation of major accidents, to prepare an external emergency plan and to take into account substances which, due to their physical form, particular conditions or location, may require additional consideration.

Article 20

Information system and exchanges

1. Member States and the Commission shall exchange information on the experience acquired with regard to the prevention of major accidents and the limitation of their consequences. This information shall concern, in particular, the functioning of the measures provided for in this Directive.
2. Member States shall ensure that the information referred to in Annex V, or a summary thereof in the case of the information referred to in part 2 of Annex V, is made available in an electronic format to the Commission, and updated on a continuous basis.

¹⁵ OJ L 342, 22.12.2009, p.1

3. The Commission shall set up and keep up to date an electronic database containing the information supplied by the Member States pursuant to paragraph 2.

The Commission shall, in close cooperation with the Member States, establish automated data exchange systems and a reporting format to be used for communicating the information referred to in paragraph 2 by 1 January 2015.

4. Member States shall provide the Commission with a three-yearly report on the implementation of this Directive. They shall also provide a summary of the information referred to in paragraph 2 in electronic format or identify the databases where that information can be accessed.

The Commission shall make publicly available an overall summary of those reports every three years in electronic format.

5. The Commission shall set up and keep at the disposal of Member States a database containing, in particular, details of the major accidents which have occurred within the territory of Member States, for the purpose of:

- a) the rapid dissemination of the information supplied by Member States pursuant to Article 16(1) and (2) among all competent authorities;
- b) distribution to competent authorities of an analysis of the causes of major accidents and the lessons learned from them;
- c) supply of information to competent authorities on preventive measures;
- d) provision of information on organizations able to provide advice or relevant information on the occurrence, prevention and mitigation of major accidents.

6. The database shall contain, at least:

- a) the information supplied by Member States in accordance with Article 16(1) and (2);
- b) an analysis of the causes of the accidents;
- c) the lessons learned from the accidents;
- d) the preventive measures necessary to prevent a recurrence.

7. The Commission shall make the databases referred to in paragraphs 3 and 5 available to the public.

Article 21

Confidentiality

1. Member States shall ensure, in the interests of transparency, that the competent authorities are required to make information received pursuant to this Directive available to any natural or legal person who so requests.

2. Requests for information obtained by the competent authorities under this Directive may be refused where the conditions down in Article 4(2) of Directive 2003/4/EC are fulfilled.
3. Access to the complete information referred to in Article 13(2)(b) and (c) obtained by the competent authorities may be refused if the operator has requested not to disclose certain parts of the safety report or the inventory of dangerous substances for the reasons provided for in points (b), (d), (e) or (f) of Article 4(2) of Directive 2003/4/EC.

The competent authority may also decide for the same reasons that certain parts of the report or inventory shall not be disclosed. In such cases, and on approval of the competent authority, the operator shall supply to the authority, and make available to the public, an amended report or inventory excluding those parts.

Article 22

Access to justice

1. Member States shall ensure that, members of the public concerned are able to seek a review in accordance with Article 6 of Directive 2003/4/EC of the acts or omissions of a competent authority in relation to any request for information pursuant to Article 13 or Article 21(1) of this Directive. Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, acts or omissions relating to cases subject to Article 14 where:
 - a) they have sufficient interest;
 - b) they maintain the impairment of a right, where administrative procedural law of a Member State requires this as a precondition.

Member States shall determine at what stage the decisions, acts or omissions may be challenged.

2. What constitutes a sufficient interest and impairment of a right shall be determined by the Member States, consistently with the objective of giving the public concerned wide access to justice. To this end, the interest of any non-governmental organisation promoting environmental protection and meeting any requirements under national law shall be deemed sufficient for the purpose of paragraph 2(a).

The organisations referred to in the first subparagraph shall also be deemed to have rights capable of being impaired for the purpose of paragraph 2(b).

3. Paragraph 2 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

4. The procedures provided for in paragraphs 1 and 2 shall be fair, equitable, timely and not prohibitively expensive. Injunctive relief shall be provided where appropriate.

Member States shall ensure that practical information is made available to the public on access to those procedures.

Article 23

Amendment of Annexes

Without prejudice to Article 4, in order to adapt Annexes I to VII to technical progress, the Commission shall adopt delegated acts in accordance with Article 24.

Article 24

Exercise of the delegation

1. The powers to adopt the delegated acts referred to in Articles 4 and 23 shall be conferred on the Commission for an indeterminate period of time.
2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 25 and 26.

Article 25

Revocation of the delegation

1. The delegation of powers referred to in Article 24 may be revoked at any time by the European Parliament or by the Council.
2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, stating the delegated powers which could be subject to revocation and the reasons for a revocation.
3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

Article 26

Objections to delegated acts

1. The European Parliament and the Council may object to the delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by one month.
2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act it shall be published in the Official Journal of the European Union and shall enter into force at the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Article 27

Penalties

Member States shall determine penalties applicable to infringements of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive. Member States shall notify these provisions to the Commission by 1 June 2015 at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 28

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 May 2015 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those measures from 1 June 2015.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 29

Repeal

1. Directive 96/82/EC is repealed with effect from 1 June 2015.
2. References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex VIII.

Article 30

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 31

Addressees

This Directive is addressed to the Member States.

Done at Brussels, [...]

For the European Parliament
The President
[...]

For the Council
The President
[...]

List of Annexes

Annex I - List of dangerous substances

Annex II - Minimum Data and information to be considered in the safety report specified in Article 9

Annex III - Information referred to in Article 9 on the management system and the organisation of the establishment with a view to the prevention of major accidents

Annex IV - Data and information to be included in the emergency plans specified under Article 11

Annex V - Items of information to be communicated to the public as provided for in Article 13(1) and (2)(a)

Annex VI - Criteria for the notification of an accident to the Commission as provided for in Article 16(1)

Annex VII - Criteria for derogations pursuant to Article 4

Annex VIII - Correlation table

ANNEX I

List of dangerous substances

PART 1

Categories of substances and mixtures

Annex I Part 1 covers all substances and mixtures falling under the hazard categories listed in Column 1:

Column 1	Column 2	Column 3
Categories of dangerous substances and mixtures	Qualifying quantity (tonnes) of substances as referred to in Article 3(9) for the application of	
	Lower-tier requirements	Upper-tier requirements
Section ‘H’ – HEALTH HAZARDS		
H1 ACUTE TOXIC Category 1 , all exposure routes	5	20
H2 ACUTE TOXIC - Category 2 , all exposure routes - Category 3 , dermal and inhalation exposure routes (see note 7)	50	200
H3 STOT SPECIFIC TARGET ORGAN TOXICITY – SINGLE EXPOSURE STOT Category 1	50	200
Section ‘P’ - PHYSICAL HAZARDS		
P1a EXPLOSIVES (see note 8) - Unstable explosives or - Explosives, Division 1.1, 1.2, 1.3, 1.5 or 1.6, or - Substances or mixtures having explosive properties according to method A.14 of Regulation (EC) No 440/2008 (see note 9) and do not belong to the hazard classes Organic peroxides or Self-reactive substances and mixtures	10	50
P1b EXPLOSIVES (see note 8) Explosives, Division 1.4 (see note 10)	50	200

Column 1	Column 2	Column 3
Categories of dangerous substances and mixtures	Qualifying quantity (tonnes) of substances as referred to in Article 3(9) for the application of	
	Lower-tier requirements	Upper-tier requirements
P2 FLAMMABLE GASES Flammable gases, Category 1 or 2	10	50
P3a FLAMMABLE AEROSOLS (see note 11.1) “Extremely flammable” or “Flammable” aerosols, containing flammable gases Category 1 or 2 or flammable liquids Category 1	150	500
P3b FLAMMABLE AEROSOLS (see note 11.1) “Extremely flammable” or “Flammable” aerosols, not containing flammable gases Category 1 or 2 nor flammable liquids category 1 (see note 11.2)	5.000	50.000
P4 OXIDIZING GASES Oxidizing gases, Category 1	50	200
P5a FLAMMABLE LIQUIDS - Flammable liquids, Category 1, or - Flammable liquids Category 2 or 3 maintained at a temperature above their boiling point, or - Other liquids with a flash point $\leq 60^{\circ}\text{C}$, maintained at a temperature above their boiling point (see note 12)	10	50
P5b FLAMMABLE LIQUIDS - Flammable liquids Category 2 or 3 where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards, or - Other liquids with a flash point $\leq 60^{\circ}\text{C}$ where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards (see note 12)	50	200

Column 1	Column 2	Column 3
Categories of dangerous substances and mixtures	Qualifying quantity (tonnes) of substances as referred to in Article 3(9) for the application of	
	Lower-tier requirements	Upper-tier requirements
P5c FLAMMABLE LIQUIDS Flammable liquids, Categories 2 or 3 not covered by P5a and P5b	5.000	50.000
P6a SELF-REACTIVE SUBSTANCES AND MIXTURES and ORGANIC PEROXIDES Self-reactive substances and mixtures, Type A or B or organic peroxides, Type A or B	10	50
P6b SELF-REACTIVE SUBSTANCES AND MIXTURES and ORGANIC PEROXIDES Self-reactive substances and mixtures, Type C, D, E or F or organic peroxides, Type C, D, E, or F	50	200
P7 PYROPHORIC LIQUIDS AND SOLIDS Pyrophoric liquids, Category 1 Pyrophoric solids, Category 1	50	200
P8 OXIDIZING LIQUIDS AND SOLIDS Oxidizing Liquids, Category 1, 2 or 3, or Oxidizing Solids, Category 1, 2 or 3	50	200
Section 'E' – ENVIRONMENTAL HAZARDS		
E1 Hazardous to the Aquatic Environment in Category Acute 1 or Chronic 1	100	200
E2 Hazardous to the Aquatic Environment in Category Chronic 2	200	500
Section 'O' – OTHER HAZARDS		

Column 1	Column 2	Column 3
Categories of dangerous substances and mixtures	Qualifying quantity (tonnes) of substances as referred to in Article 3(9) for the application of	
	Lower-tier requirements	Upper-tier requirements
O1 Substances or mixtures with hazard statement EUH014	100	500
O2 Substances and mixtures which in contact with water emit flammable gases, Category 1	100	500
O3 Substances or mixtures with hazard statement EUH029	50	200

PART 2

Named substances

Where a substance or group of substances listed in Part 2 also falls within a category of Part 1, the qualifying quantities set out in Part 2 must be used.

Column 1	CAS number ¹⁶	Column 2	Column 3
		Qualifying quantity (tonnes) for the application of	
Dangerous substances		Lower-tier requirements	Upper-tier requirements
Ammonium nitrate (note 13)	-	5000	10000
Ammonium nitrate (note 14)	-	1250	5000
Ammonium nitrate (note 15)	-	350	2500
Ammonium nitrate (note 16)	-	10	50
Potassium nitrate (note 17)	-	5000	10000
Potassium nitrate (note 18)	-	1250	5000
Arsenic pentoxide, arsenic (V) acid and/or salts	1303-28-2	1	2
Arsenic trioxide, arsenious (III) acid and/or salts	1327-53-3		0,1

¹⁶ The CAS number is shown only for indication.

Bromine	7726-95-6	20	100
Chlorine	7782-50-5	10	25
Nickel compounds in inhalable powder-form: nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide			1
Ethyleneimine	151-56-4	10	20
Fluorine	7782-41-4	10	20
Formaldehyde (concentration $\geq 90\%$)	50-00-0	5	50
Hydrogen	1333-74-0	5	50
Hydrogen chloride (liquefied gas)	7647-01-0	25	250
Lead alkyls	-	5	50
Liquefied flammable gases, CLP-Category 1 or 2 (including LPG) and natural gas		50	200
Acetylene	74-86-2	5	50
Ethylene oxide	75-21-8	5	50
Propylene oxide	75-56-9	5	50
Methanol	67-56-1	500	5000
4, 4-Methylenebis (2-chloraniline) and/or salts, in powder form	101-14-4		0,01
Methylisocyanate	624-83-9		0,15
Oxygen	7782-44-7	200	2000
2,4 -Toluene diisocyanate	584-84-9	10	100
2,6 -Toluene diisocyanate	91-08-7		
Carbonyl dichloride (phosgene)	75-44-5	0,3	0,75
Arsine (arsenic trihydride)	7784-42-1	0,2	1
Phosphine (phosphorus trihydride)	7803-51-2	0,2	1
Sulphur dichloride	10545-99-0	1	1

Sulphur trioxide	7446-11-9	15	75
Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent (note 19)			0,001
The following CARCINOGENS or the mixtures containing the following carcinogens at concentrations above 5% by weight: 4-Aminobiphenyl and/or its salts, Benzotrichloride, Benzidine and/or salts, Bis (chloromethyl) ether, Chloromethyl methyl ether, 1,2-Dibromoethane, Diethyl sulphate, Dimethyl sulphate, Dimethylcarbamoyl chloride, 1,2-Dibromo-3-chloropropane, 1,2-Dimethylhydrazine, Dimethylnitrosamine, Hexamethylphosphoric triamide, Hydrazine, 2- Naphthylamine and/or salts, 4-Nitrodiphenyl, and 1,3 Propanesultone		0,5	2
Petroleum products (a) gasolines and naphthas, (b) kerosenes (including jet fuels), (c) gas oils (including diesel fuels, home heating oils and gas oil blending streams) (d) heavy fuel oil		2500	25000
Anhydrous Ammonia	7664-41-7	50	200
Boron trifluoride	7637-07-2	5	20
Hydrogen sulphide	7783-06-4	5	20

PART 3

Substances and mixtures excluded from this Directive pursuant to Article 2(2)(h) and Article 4(1)

Name of	CAS number	Quantity (where	Other conditions
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substance/mixture		applicable)	where applicable

NOTES TO ANNEX I

1. Substances and mixtures are classified according to Regulation (EC) No 1272/2008 of the European Parliament and of the Council¹⁷.

2. Mixtures shall be treated in the same way as pure substances provided they remain within concentration limits set according to their properties under the Regulation given in Note 1, or its latest adaptation to technical progress, unless a percentage composition or other description is specifically given.

3. The qualifying quantities set out below relate to each establishment.

The quantities to be considered for the application of the relevant Articles are the maximum quantities which are present or are likely to be present at any one time. Dangerous substances present at an establishment only in quantities equal to or less than 2 % of the relevant qualifying quantity shall be ignored for the purposes of calculating the total quantity present if their location within an establishment is such that it cannot act as an initiator of a major accident elsewhere on the site.

4. The following rules governing the addition of dangerous substances, or categories of dangerous substances, shall apply where appropriate:

In the case of an establishment where no individual substance or mixture is present in a quantity above or equal to the relevant qualifying quantities, the following rule shall be applied to determine whether the establishment is covered by the relevant requirements of this Directive.

This Directive shall apply if the sum:

$$q_1/Q_{U1} + q_2/Q_{U2} + q_3/Q_{U3} + q_4/Q_{U4} + q_5/Q_{U5} + \dots \text{ is greater than or equal to } 1,$$

where q_x = the quantity of dangerous substance x (or category of dangerous substances) falling within Parts 1 or 2 of this Annex,

and Q_{UX} = the relevant qualifying quantity for substance or category x from column 3 of Parts 1 or 2.

This Directive shall apply, with the exception of Articles 9, 11 and 13, if the sum:

$$q_1/Q_{L1} + q_2/Q_{L2} + q_3/Q_{L3} + q_4/Q_{L4} + q_5/Q_{L5} + \dots \text{ is greater than or equal to } 1,$$

where q_x = the quantity of dangerous substance x (or category of dangerous substances) falling within Parts 1 or 2 of this Annex,

¹⁷ OJL 353, 31.12.2008, p.1

and Q_{LX} = the relevant qualifying quantity for substance or category x from column 2 of Parts 1 or 2.

This rule shall be used to assess the overall major accident hazards described in the three above sections: health hazards, physical hazards and environmental hazards. It must therefore be applied three times:

(a) for the addition of substances and mixtures named in Part 2 that are classified as acute toxicity category 1,2 or 3, together with substances and mixtures falling into section H: H1 to H3.

(b) for the addition of substances and mixtures named in Part 2 that are classified as explosives, flammable gases, flammable aerosols, oxidising gases, flammable liquids, self-reactive substances and mixtures, organic peroxides, pyrophoric liquids, oxidising liquids and solids, together with substances and mixtures falling into section P: P1 to P8.

(c) for the addition of substances and mixtures named in Part 2 that are classified as hazardous to the aquatic environment, acute category 1, chronic category 1 or chronic category 2, together with substances and mixtures falling into section E: E1 and E2.

The relevant provisions of this Directive apply if any of the sums obtained by (a), (b) or (c) is greater than or equal to 1.

5. In the case of substances and mixtures which are not covered by Annex I, including waste, but which nevertheless are present, or are likely to be present, in an establishment and which possess or are likely to possess, under the conditions found at the establishment, equivalent properties in terms of major-accident potential, Member States shall provisionally assign these to the most analogous Seveso category/named substance (pending a decision pursuant to Article 4(5) of this Directive).

6. In the case of substances and mixtures with properties giving rise to more than one classification, for the purposes of this Directive the lowest qualifying quantities shall apply. However, for the application of the rule in Note 4, the qualifying quantity used shall always be the one corresponding to the classification concerned.

7. In the case of substances and mixtures falling within the hazard class H2 ACUTE TOXIC, Category 3, dermal and inhalation exposure routes, where data for these route(s) are not available, extrapolation from other route(s) shall be performed based on the approach outlined in Regulation (EC) No. 1272/2008 on classification, labelling and packaging of substances and mixtures (in particular point 3.1.3.6.2.1. (a) and table 3.1.2 in Annex 1) and Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (in particular Annex I, section 5.2 (exposure estimation)), as well as the related guidance, available at: http://guidance.echa.europa.eu/docs/guidance_document/clp_en.pdf (as of page 204).

8. The hazard class Explosives includes explosive articles (see Section 2.1 of Annex I of the CLP-Regulation). If the quantity of the explosive substance or mixture contained in the article is known, that quantity shall be considered for the purposes of this Directive. If the quantity of the explosive substance or mixture contained in the article is not known, then, for the purposes of this Directive, the whole article shall be treated as explosive.

9. Testing for explosive properties of substances and mixtures is only necessary if the screening procedure according to Appendix 6 (Part 3) of the UN Manual of Tests and Criteria¹⁸ identifies the substance/mixture as potentially having explosive properties.

10. If Explosives of Division 1.4 are unpacked or repacked, they shall be assigned to the entry P3, unless the hazard is shown to still correspond to Division 1.4, in accordance with Regulation (EC) No 1272/2008.

11.1. Flammable aerosols are classified in accordance to the Aerosol Dispensers Directive 75/324/EEC¹⁹. 'Extremely flammable' and 'Flammable' aerosols of Directive 75/324/EEC correspond to Flammable Aerosols Category 1 or 2 respectively of Regulation (EC) No 1272/2008.

11.2. In order to use this entry, it must be documented that the aerosol dispenser does not contain Flammable Gas Category 1 or 2 nor Flammable Liquid Category 1.

12. According to 2.6.4.5 in Annex I to Regulation (EC) No 1272/2008, liquids with a flash point of more than 35 °C need not be classified in Category 3 if they do not sustain combustion. This is however not valid under elevated conditions such as high temperature or pressure, and therefore such liquids are included in this entry.

13. Ammonium nitrate (5000 / 10000): fertilisers capable of self-sustaining decomposition

This applies to ammonium nitrate-based compound/composite fertilisers (compound/composite fertilisers contain ammonium nitrate with phosphate and/or potash) which are capable of self-sustaining decomposition according to the UN Trough Test (see United Nations Recommendations on the Transport of Dangerous Goods: Manual of Tests and Criteria, Part III, subsection 38.2), and in which the nitrogen content as a result of ammonium nitrate is

- between 15,75 %²⁰ and 24,5 %²¹ by weight, and either with not more than 0,4 % total combustible / organic materials or which fulfil the requirements of Annex III-2 of Regulation (EC) No 2003/2003 of the European Parliament and of the Council²²;
- 15,75 % by weight or less and unrestricted combustible materials.

14. Ammonium nitrate (1250 / 5000): fertiliser grade

This applies to straight ammonium nitrate-based fertilisers and to ammonium nitrate-based compound fertilisers which fulfil the requirements of Annex III-2 to Regulation (EC) No 2003/2003 and in which the nitrogen content as a result of ammonium nitrate is

¹⁸ More guidance on waiving of the test can be found in the A.14 method description, see Regulation (EC) No 440/2008 of 30 May 2008 laying down test methods pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ L 142, 31.5.2008, p. 1)

¹⁹ OJL 147, 9.6.1975, p. 40

²⁰ 15,75 % nitrogen content by weight as a result of ammonium nitrate corresponds to 45 % ammonium nitrate.

²¹ 24,5 % nitrogen content by weight as a result of ammonium nitrate corresponds to 70 % ammonium nitrate.

²² OJL 304, 21.11.2003, p. 1

- more than 24,5 % by weight, except for mixtures of straight ammonium nitrate-based fertilisers with dolomite, limestone and/or calcium carbonate with a purity of at least 90 %;
- more than 15,75 % by weight for mixtures of ammonium nitrate and ammonium sulphate;
- more than 28 %²³ by weight for mixtures of straight ammonium nitrate-based fertilisers with dolomite, limestone and/or calcium carbonate with a purity of at least 90 %.

15. Ammonium nitrate (350 / 2500): technical grade

This applies to ammonium nitrate and mixtures of ammonium nitrate in which the nitrogen content as a result of the ammonium nitrate is

- between 24,5 % and 28 % by weight, and which contain not more than 0,4 % combustible substances;
- more than 28 % by weight, and which contain not more than 0,2 % combustible substances.

It also applies to aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 80 % by weight.

16. Ammonium nitrate (10 / 50): “off-specs” material and fertilisers not fulfilling the detonation test

This applies to

- material rejected during the manufacturing process and to ammonium nitrate and mixtures of ammonium nitrate, straight ammonium nitrate-based fertilisers and ammonium nitrate-based compound/composite fertilisers referred to in Notes 2 and 3, that are being or have been returned from the final user to a manufacturer, temporary storage or reprocessing plant for reworking, recycling or treatment for safe use, because they no longer comply with the specifications of Notes 2 and 3;
- fertilisers referred to in Note 1, first indent, and Note 2 which do not fulfil the requirements of Annex III-2 to Regulation (EC) No 2003/2003.

17. Potassium nitrate (5000 / 10000)

This applies to those composite potassium-nitrate based fertilisers (in prilled/granular) form which have the same hazardous properties as pure potassium nitrate.

18. Potassium nitrate (1250 / 5000)

This applies to those composite potassium-nitrate based fertilisers (in crystalline) form which have the same hazardous properties as pure potassium nitrate.

²³ 28 % nitrogen content by weight as a result of ammonium nitrate corresponds to 80 % ammonium nitrate.

19. Polychlorodibenzofurans and polychlorodibenzodioxins

The quantities of polychlorodibenzofurans and polychlorodibenzodioxins are calculated using the following factors:

WHO 2005 TEF			
2,3,7,8-TCDD	1	2,3,7,8-TCDF	0,1
1,2,3,7,8-PeCDD	1	2,3,4,7,8-PeCDF	0,3
		1,2,3,7,8-PeCDF	0,03
1,2,3,4,7,8-HxCDD	0,1		
1,2,3,6,7,8-HxCDD	0,1	1,2,3,4,7,8-HxCDF	0,1
1,2,3,7,8,9-HxCDD	0,1	1,2,3,7,8,9-HxCDF	0,1
		1,2,3,6,7,8-HxCDF	0,1
1,2,3,4,6,7,8-HpCDD	0,01	2,3,4,6,7,8-HxCDF	0,1
OCDD	0,0003	1,2,3,4,6,7,8-HpCDF	0,01
		1,2,3,4,7,8,9-HpCDF	0,01
		OCDF	0,0003
(T = tetra, P = penta, Hx = hexa, Hp = hepta, O = octa)			
Reference - Van den Berg et al: The 2005 World Health Organization Re-evaluation of Human and Mammalian Toxic Equivalency Factors for Dioxins and Dioxin-like Compounds			

ANNEX II

MINIMUM DATA AND INFORMATION TO BE CONSIDERED IN THE SAFETY REPORT SPECIFIED IN ARTICLE 9

1. Information on the management system and on the organization of the establishment with a view to major accident prevention

This information shall contain the elements given in Annex III.
2. Presentation of the environment of the establishment
 - (a) description of the site and its environment including the geographical location, meteorological, geological, hydrographic conditions and, if necessary, its history;
 - (b) identification of installations and other activities of the establishment which could present a major-accident hazard;
 - (c) identification of neighbouring establishments, as well as other sites, areas and developments that could increase the risk or consequences of a major accident and of domino effects;
 - (d) description of areas where a major accident may occur.
3. Description of the installation
 - (a) description of the main activities and products of the parts of the establishment which are important from the point of view of safety, sources of major-accident risks and conditions under which such a major accident could happen, together with a description of proposed preventive measures;
 - (b) description of processes, in particular the operating methods;
 - (c) description of dangerous substances:
 - (i) inventory of dangerous substances including:
 - the identification of dangerous substances: chemical name, CAS number, name according to IUPAC nomenclature,
 - the maximum quantity of dangerous substances present or likely to be present;
 - (ii) physical, chemical, toxicological characteristics and indication of the hazards, both immediate and delayed for human health and the environment;
 - (iii) physical and chemical behaviour under normal conditions of use or under foreseeable accidental conditions.
4. Identification and accidental risks analysis and prevention methods

(a) detailed description of the possible major-accident scenarios and their probability or the conditions under which they occur including a summary of the events which may play a role in triggering each of these scenarios, the causes being internal or external to the installation; including in particular

- (i) operational hazard sources;
- (ii) external risks and hazard sources, from domino effects and from other sites, areas and developments that could increase the risk or consequences of a major accident;
- (iii) environmental risks and hazard sources, for example earthquakes or floods;

(b) assessment of the extent and severity of the consequences of identified major accidents including maps, images or, as appropriate, equivalent descriptions, showing areas which are liable to be affected by such accidents arising from the establishment, subject to the provisions of Articles 13(2) (b) and 21;

(c) review of past accidents and incidents with the same substances and processes used, consideration of lessons learned from these, and explicit reference to specific measures taken to prevent such accidents;

(d) description of technical parameters and equipment used for the safety of installations.

5. Measures of protection and intervention to limit the consequences of an accident

(a) description of the equipment installed in the plant to limit the consequences of major accidents for human health and environment, including for example detection/protection systems, technical devices for limiting the size of accidental releases (including water spray; vapour screens, emergency catch pots or collection vessels, shut-of valves; inerting systems; fire water retention);

(b) organization of alert and intervention;

(c) description of mobilizable resources, internal or external;

(d) summary of elements described in point (a), (b) and (c) necessary for drawing up the internal emergency plan prepared in compliance with Article 11.

ANNEX III

INFORMATION REFERRED TO IN ARTICLE 9 ON THE MANAGEMENT SYSTEM AND THE ORGANISATION OF THE ESTABLISHMENT WITH A VIEW TO THE PREVENTION OF MAJOR ACCIDENTS

For the purpose of implementing the operator's safety management system, account shall be taken of the following elements:

(a) the safety management system shall be proportionate to the hazards, industrial activities and complexity of the organisation in the establishment and be based on assessment of the risks. It should include the part of the general management system which includes the organizational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the major-accident prevention policy. Other existing management systems including ISO, OSHAS, EMAS shall be taken into account;

(b) the following issues shall be addressed by the safety management system:

(i) organisation and personnel — the roles and responsibilities of personnel involved in the management of major hazards at all levels in the organisation. The identification of training needs of such personnel and the provision of the training so identified. The involvement of employees and of subcontracted personnel working in the establishment;

(ii) identification and evaluation of major hazards — adoption and implementation of procedures for systematically identifying major hazards arising from normal and abnormal operation and the assessment of their likelihood and severity;

(iii) operational control — adoption and implementation of procedures and instructions for safe operation, including maintenance, of plant, processes, equipment, alarm management and temporary stoppages;

(iv) management of change — adoption and implementation of procedures for planning modifications to, or the design of new installations, processes or storage facilities;

(v) safety culture — measures to assess and improve safety culture;

(vi) planning for emergencies — adoption and implementation of procedures to identify foreseeable emergencies by systematic analysis, to prepare, test and review emergency plans to respond to such emergencies and to provide specific training for the staff concerned. Such training shall be given to all personnel working in the establishment, including relevant subcontracted personnel;

(vii) monitoring performance — adoption and implementation of procedures for the ongoing assessment of compliance with the objectives set by the operator's major-accident prevention policy and safety management system, and the mechanisms for investigation and taking corrective action in case of non-compliance. The procedures shall cover the operator's system for reporting major accidents or near misses, particularly those involving failure of protective measures, and their investigation and follow-up on the basis of lessons learnt. The procedures could also include performance indicators such as safety performance indicators (SPIs) and other relevant indicators;

(viii) audit and review — adoption and implementation of procedures for periodic systematic assessment of the major-accident prevention policy and the effectiveness and suitability of the

safety management system; the documented review of performance of the policy and safety management system and its updating by senior management, including consideration and incorporation of necessary changes indicated by the audit.

ANNEX IV

DATA AND INFORMATION TO BE INCLUDED IN THE EMERGENCY PLANS SPECIFIED UNDER ARTICLE 11

1. Internal emergency plans

Names or positions of persons authorized to set emergency procedures in motion and the person in charge of and coordinating the on-site mitigatory action.

- (a) Name or position of the person with responsibility for liaising with the authority responsible for the external emergency plan.
- (b) For foreseeable conditions or events which could be significant in bringing about a major accident, a description of the action which should be taken to control the conditions or events and to limit their consequences, including a description of the safety equipment and the resources available.
- (c) Arrangements for limiting the risks to persons on site including how warnings are to be given and the actions persons are expected to take on receipt of a warning.
- (d) Arrangements for providing early warning of the incident to the authority responsible for setting the external emergency plan in motion, the type of information which should be contained in an initial warning and the arrangements for the provision of more detailed information as it becomes available.
- (e) Arrangements for providing assistance with off-site mitigatory action.

2. External emergency plans

- (a) Names or positions of persons authorized to set emergency procedures in motion and of persons authorized to take charge of and coordinate offsite action.
- (b) Arrangements for receiving early warning of incidents, and alert and call-out procedures.
- (c) Arrangements for coordinating resources necessary to implement the external emergency plan.
- (d) Arrangements for providing assistance with on-site mitigatory action.
- (e) Arrangements for off-site mitigatory action, including responses to major accident scenarios as set out in the safety report, including those having an impact on the environment.
- (f) Arrangements for providing the public and any neighbouring establishments in accordance with Article 8 with specific information relating to the accident and the behaviour which should be adopted.
- (g) Arrangements for the provision of information to the emergency services of other Member States in the event of a major accident with possible transboundary consequences.

ANNEX V

ITEMS OF INFORMATION TO THE PUBLIC AS PROVIDED FOR IN ARTICLE 13 (1) and (2)(a)

Part 1

For all establishments covered by this Directive:

1. Name or trade name of the operator and the full address of the establishment concerned.
2. Confirmation that the establishment is subject to the regulations and/or administrative provisions implementing this Directive and that the notification referred to in Article 6(1) or the safety report referred to in Article 9(1) has been submitted to the competent authority.
3. An explanation in simple terms of the activity or activities undertaken at the establishment.
4. The common names or, in the case of dangerous substances covered by Part 1 of Annex 1, the generic names or the hazard classification of the substances and mixtures involved at the establishment which could give rise to a major accident, with an indication of their principal dangerous characteristics.
5. General information relating to the nature of the major-accident hazards, including their potential effects on the population and the environment, as set out in major accident prevention policy or in the safety report.
6. Summary details of the inspections carried out pursuant to Article 19 and of the main findings from the latest inspection conclusions, together with a reference or /link to the related inspection plan.
7. Details of where further relevant information can be obtained, subject to the requirements of Article 21 on confidentiality.

Part 2

For upper-tier establishments, in addition to the information referred to in Part 1 of this Annex:

1. Summary details of the main types of major-accident scenarios and the main types of events which may play a role in triggering each of these scenarios.
2. Adequate information on how the population concerned will be warned and kept informed in the event of a major accident.
3. Adequate information on the actions the population concerned should take, and on the behaviour they should adopt, in the event of a major accident.

4. Confirmation that the operator is required to make adequate arrangements on site, in particular liaison with the emergency services, to deal with major accidents and to minimize their effects.
5. Appropriate information from the external emergency plan drawn up to cope with any off-site effects from an accident. This should include advice to cooperate with any instructions or requests from the emergency services at the time of an accident.
6. Where applicable, indication whether the establishment is close to the territory of another Member State with the possibility of a major accident with transboundary effects under the UNECE Convention on the Transboundary Effects of Industrial Accidents.

ANNEX VI

CRITERIA FOR THE NOTIFICATION OF AN ACCIDENT TO THE COMMISSION AS PROVIDED FOR IN ARTICLE 16 (1)

I. Any accident covered by paragraph 1 or having at least one of the consequences described in paragraphs 2, 3, 4 and 5 must be notified to the Commission.

1. Substances involved

Any fire or explosion or accidental discharge of a dangerous substance involving a quantity of at least 1 % of the qualifying quantity laid down in column 3 of Annex I.

2. Injury to persons and damage to real estate

An accident directly involving a dangerous substance and giving rise to one of the following events:

- (a) a death;
- (b) six persons injured within the establishment and hospitalized for at least 24 hours;
- (c) one person outside the establishment hospitalized for at least 24 hours;
- (d) dwelling(s) outside the establishment damaged and unusable as a result of the accident;
- (e) the evacuation or confinement of persons for more than 2 hours (persons × hours): the value is at least 500;
- (f) the interruption of drinking water, electricity, gas or telephone services for more than 2 hours (persons × hours): the value is at least 1 000.

3. Immediate damage to the environment

- (a) permanent or long-term damage to terrestrial habitats:
 - (i) 0,5 ha or more of a habitat of environmental or conservation importance protected by legislation,
 - (ii) 10 or more hectares of more widespread habitat, including agricultural land,
- (b) significant or long-term damage to freshwater and marine habitats:
 - (i) 10 km or more of river or canal,
 - (ii) 1 ha or more of a lake or pond,
 - (iii) 2 ha or more of delta,
 - (iv) 2 ha or more of a coastline or open sea,

(c) significant damage to an aquifer or underground water:

(i) 1 ha or more.

4. Damage to property

(a) damage to property in the establishment: at least 2 million euros,

(b) damage to property outside the establishment: at least 0,5 million euros.

5. Cross-border damage

Any accident directly involving a dangerous substance giving rise to effects outside the territory of the Member State concerned.

II. Accidents or 'near misses' which Member States regard as being of particular technical interest for preventing major accidents and limiting their consequences and which do not meet the quantitative criteria above should be notified to the Commission.

ANNEX VII
CRITERIA FOR DEROGATIONS PURSUANT TO ARTICLE 4

ANNEX VIII

CORRELATION TABLE

Directive 96/82/EC	This Directive
Article 1	Article 1
Article 2(1) first subparagraph	Article 2(1)
Article 2(1) second subparagraph	Article 3(11)
Article 2(2)	---
Article 3(1)	Article 3(1)
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Article 3(5)	Article 3(12)
Article 3(6)	Article 3(13)
Article 3(7)	Article 3(14)
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Article 4	Article 2(2)(a)-(g)
---	Article 4
Article 5	Article 5
Article 6(1)	Article 6(2)
Article 6(2)(a)-(g)	Article 6(1)(a)-(g)
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Article 6(3)	Article 6(3)
Article 6(4)	Article 6(4)
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Article 7(1)	Article 7(1)
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Article 8	Article 8
Article 9(1)	Article 9(1)
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Article 9(5)	Article 9(5)
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Article 11(5)	Article 11(6)
Article 11(6)	Article 11(7)
Article 12(1) first subparagraph	Article 12(1)

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Article 13(1) third subparagraph	Article 13(1) and Article 13(2) second subparagraph first sentence
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Article 13(4)	Article 13(2)(b)
Article 13(5)	Article 14(1)
Article 13(6)	Article 13(2)(c)
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Article 14	Article 15
Article 15	Article 16
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Article 17	Article 18
Article 18(1)	Article 19(1)-(2)
Article 18(2) (a)	Article 19(4)

Article 18(2)(b)-(c)	Article 19(7)
Article 18(3)	Article 19(10)
---	Article 19(3),(5),(6), (8) and (9)
Article 19(1)	Article 20(1)
Article 19(1a) first subparagraph	Article 20(2)
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