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**A7-0339/2011**

11.10.2011

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# **REPORT**

on the proposal for a directive of the European Parliament and of the Council  
on control of major-accident hazards involving dangerous substances  
(COM(2010)0781 – C7-0011/2011 – 2010/0377(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: János Áder

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the proposal for a directive of the European Parliament and of the Council on control of major-accident hazards involving dangerous substances  
(COM(2010)0781 – C7-0011/2011 – 2010/0377(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0781),
  - having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0011/2011),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 15 June 2011<sup>1</sup>,
  - having regard to the opinion of the Committee of the Regions of...<sup>2</sup>,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection (A7-0339/2011),
1. Adopts its position at first reading hereinafter set out;
  2. Approves its statement annexed to this resolution;
  3. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> Not yet published in the Official Journal.

## Amendment 1

### Proposal for a directive

#### Recital 2

##### *Text proposed by the Commission*

(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.

##### *Amendment*

(2) Major accidents 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, **property** and the environment. ***There is therefore a need to ensure that existing high levels of protection are maintained and, if possible, further improved.***

##### *Justification*

*The Commission proposal included 'property' in the definition of major accident, referring to 'serious danger to human health, property or the environment'. For legal coherence 'property' should also be added to this recital.*

## Amendment 2

### Proposal for a directive

#### Recital 3

##### *Text proposed by the Commission*

(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

##### *Amendment*

(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 ***the rate of major accidents has remained stable.*** ***While*** overall the existing provisions are fit for purpose, ***several*** changes are required ***in order to further strengthen the level of protection, in particular with regard to*** the

classification of dangerous substances to which it refers. In addition, a number of other provisions should be clarified and updated.

***prevention of major accidents. At the same time 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.

#### *Justification*

*The number of major accidents has remained stable over the last years. 30 major accidents per year are too many. It is thus important to use the opportunity of the revision triggered by the new classification system to strengthen important provisions of the directive.*

### **Amendment 3**

#### **Proposal for a directive**

##### **Recital 4**

#### *Text proposed by the Commission*

(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.

#### *Amendment*

(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, ***provided that safety and environmental and public health protection are not compromised.*** At the same time, the new provisions should be clear, coherent and easy to understand to help improve implementation and enforceability, ***while the level of protection of health and the environment remains at least the same or increases.***

#### *Justification*

*It must be ensured that not only the level of safety but also the level of environmental and public health protection should not be compromised.*

### **Amendment 4**

**Proposal for a directive**  
**Recital 6**

*Text proposed by the Commission*

(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.

*Amendment*

(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 **establish and apply safety and risk-reduction** measures **with a view to preventing possible accidents, reducing the risk of accidents occurring and minimising the effects if they do occur, thereby making it possible to ensure** a high level of protection throughout the Union. **The Member States should make every effort to exchange best practices.**

**Amendment 5**

**Proposal for a directive**  
**Recital 8**

*Text proposed by the Commission*

(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.**

*Amendment*

(8) Certain industrial activities should be excluded from the scope of this Directive, **provided they** are subject to other legislation at Union or national level providing an equivalent level of safety. The Commission should continue to **examine whether** there are significant gaps in the existing regulatory framework, in particular as regards new and emerging risks from other activities **as well as from specific dangerous substances, and certain nanomaterials that do not yet fall within the scope of this Directive, and if appropriate present a legislative proposal to address those gaps.**

**Amendment 6**

## Proposal for a directive

### Recital 9

#### *Text proposed by the Commission*

(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 substances 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 preparations. 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 mixtures, 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 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.

#### *Amendment*

(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 substances 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 preparations. Directives 67/548/EEC and 1999/45/EC 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 mixtures, 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. ***Certain hazard categories would however not be classified under that system due to an absence of criteria within that framework.*** Annex I to Directive 96/82/EC therefore needs to be amended to align it to that Regulation while maintaining the existing levels, ***or further increase the level,*** of protection of that Directive.

#### Amendment 7

**Proposal for a directive**  
**Recital 10**

*Text proposed by the Commission*

(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.

*Amendment*

(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, derogations could be granted where, notwithstanding their hazard classification, substances do not present a major accident hazard. ***The assessment of possible derogations should start swiftly, in particular after the change of classification of a dangerous substance, to avoid unnecessary burdens for operators and competent authorities.*** 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.

*Justification*

*The mechanism of Article 4 is positive. However, in the event of a change of classification of a dangerous substance, the assessment of this derogation from the scope of the Directive should start quickly. This avoids unnecessary regulatory and administrative burdens.*

**Amendment 8**

**Proposal for a directive**  
**Recital 11**

*Text proposed by the Commission*

(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

*Amendment*

(11) Operators should have a general obligation to take all necessary measures to prevent major accidents, to mitigate their consequences ***and to take recovery measures.*** Where dangerous substances are present in establishments above certain quantities the operator should provide the

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.

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.

#### *Justification*

*Responsibility for taking recovery measures following an accident should rest with the operators.*

### **Amendment 9**

#### **Proposal for a directive Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11a) Operators should be able to provide evidence that they would be able to deal with the consequences of an accident involving dangerous substances, for example by demonstrating that they have taken out a specific insurance policy with a company of acknowledged solvency or that they have a sufficient level of equity. This is important in order to ensure that dealing with the consequences of an accident involving dangerous substances does not put a strain on public finances and is included as part of an operator's costs.***

### **Amendment 10**

#### **Proposal for a directive Recital 12 a (new)**

*Text proposed by the Commission*

*Amendment*

***(12a) In order to reduce the risk of major***

*accidents and of domino effects, due consideration should be given to the interaction between natural sources of danger associated with the location of the undertaking or facility and sources of danger associated with the technologies it uses.*

## Amendment 11

### Proposal for a directive

#### Recital 15

##### *Text proposed by the Commission*

(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.

##### *Amendment*

(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 ***pursue appropriate safety distances*** between such areas and establishments presenting such hazards and, where existing establishments are concerned, to ***implement, if necessary,*** additional technical measures so that the risk to persons ***or the environment*** is ***maintained at an acceptable level***. 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, ***especially for small and medium-sized enterprises,*** procedures ***and measures*** should be integrated with those under other ***relevant*** Union legislation.

## Amendment 12

### Proposal for a directive

#### Recital 16

*Text proposed by the Commission*

(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 matters, 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.

*Amendment*

(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 matters<sup>1</sup>, 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.

***Information disseminated to the public should be worded clearly and intelligibly.***

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. ***In order to achieve greater transparency, more detailed and comprehensive information, including in the form of documents, should be made available upon request.*** At the same time there should be appropriate confidentiality safeguards to address security-related concerns, among others, ***to be provided on a case-by-case basis, in line with the restrictive criteria and conditions set out under the Aarhus Convention.***

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<sup>1</sup> OJ L 124, 17.5.2005, p. 1

*Justification*

*While respecting confidentiality safeguards, access to additional information or documents upon request from any natural/legal person would enhance transparency and public*

*confidence in the safety of industrial installations. The handling of confidentiality requests should be subject to the Aarhus Convention in order to make sure that the amended Directive is fully aligned with the Convention which is ratified by the EU and all 27 Member States.*

## **Amendment 13**

### **Proposal for a directive Recital 19**

#### *Text proposed by the Commission*

(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.

#### *Amendment*

(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 ***local authorities and*** communicate the information necessary for them to assess the impact of that accident ***on people's health, on their property and on the environment and to prevent such an accident from happening again.***

## **Amendment 14**

### **Proposal for a directive Recital 20**

#### *Text proposed by the Commission*

(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 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.

#### *Amendment*

(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 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. ***Member States and the Commission should strive to ensure the completeness of information held on***

*information systems established in order to facilitate the exchange of information on major accidents.*

*Justification*

*Information exchange systems are extremely important for the sharing of experience between Member States and, among other things, enabling operators to learn necessary lessons. However, the information must be complete and must enable the causes of the accident to be identified.*

**Amendment 15**

**Proposal for a directive  
Recital 22 a (new)**

*Text proposed by the Commission*

*Amendment*

*(22a) A systematic evaluation should be carried out of the need to adapt the Annex to this Directive listing dangerous substances, following the adaptations to technical progress of Regulation (EC) No 1272/2008. This would enable a functional link to be ensured between that Regulation and this Directive and would also provide for increased protection of human health and the environment.*

**Amendment 16**

**Proposal for a directive  
Recital 23**

*Text proposed by the Commission*

*Amendment*

*(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.*

*(23) In order to adapt this Directive to technical and scientific progress, the power to adopt acts in accordance with Article 290 of the Treaty **on the Functioning of the European Union** should be delegated to the Commission in respect of amendments to **part 3 of Annex I, and** the Annexes **II to VI** of this Directive. **It is of particular importance that the Commission carry out***

*appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.*

#### *Justification*

*This amendment aligns the recital to the new standard clauses on delegated acts. It furthermore clarifies that it should be possible to amend part 3 of Annex I (which changes the scope, but only for very specific situations) and the Annexes II to VI by delegated acts. Amendments to Part 1 and 2 of Annex I and to Annex VII however can have large impacts on the scope and should therefore be dealt with through the ordinary legislative procedure.*

### **Amendment 17**

#### **Proposal for a directive**

##### **Recital 25**

#### *Text proposed by the Commission*

(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,

#### *Amendment*

(25) Since the objectives of the Directive, namely to ensure a high level of protection of human health, **property** 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,

#### *Justification*

*The Commission proposal included 'property' in the definition of major accident, referring to 'serious danger to human health, property or the environment'. For legal coherence 'property' should also be added to this recital.*

## Amendment 18

### Proposal for a directive Article 1

#### *Text proposed by the Commission*

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.

#### *Amendment*

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

#### *Justification*

*The Commission proposal included 'property' in the definition of major accident, referring to 'serious danger to human health, property or the environment'. For legal coherence 'property' should also be added to this recital.*

## Amendment 19

### Proposal for a directive Article 2 - paragraph 2 - point c

#### *Text proposed by the Commission*

(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;

#### *Amendment*

(c) the transport of dangerous substances and **directly related** intermediate **short-term** 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;

## Amendment 20

### Proposal for a directive Article 2 – paragraph 2 – point e

*Text proposed by the Commission*

*Amendment*

(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;

(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, ***salt cavities*** 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;

*Justification*

*The Commission proposal covers only storage in natural strata and disused mines, leaving out storage in salt cavities. This gives rise to a competitive imbalance between the types of storage that are covered and those that are exempted, which is particularly detrimental to Member States which do not have any salt cavities.*

**Amendment 21**

**Proposal for a directive**

**Article 2 – paragraph 2 – point h**

*Text proposed by the Commission*

*Amendment*

***(h) substances listed in Part 3 of Annex I.***      ***deleted***

*Justification*

*Article 2, paragraph 2 concerns clear cases of exclusion from the scope of this Directive. Part 3 of Annex I only concerns derogations for specific cases where substances under certain conditions are incapable of creating a major accident hazard. Substances listed in Part 3 of Annex I are not excluded from the scope of the Directive, they only enjoy special treatment if strict conditions are fulfilled.*

**Amendment 22**

**Proposal for a directive**

**Article 2 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Further extension of the scope of this***

***Directive shall be preceded by an impact assessment.***

## **Amendment 23**

### **Proposal for a directive**

#### **Article 3 – paragraph 1 – point 2**

##### *Text proposed by the Commission*

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;

##### *Amendment*

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 **or** column 2 of Part 2 of Annex I, **where relevant**, but less than the quantities listed in column 3 of Part 1 of Annex I, and column 3 of Part 2 of Annex I;

##### *Justification*

*For many substances, there is only an entry in Part 1 of Annex I, not in Part 2, so it has to be clarified that these two Annexes do not apply in a cumulative manner.*

## **Amendment 24**

### **Proposal for a directive**

#### **Article 3 – paragraph 1 – point 3**

##### *Text proposed by the Commission*

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;

##### *Amendment*

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 **or** column 3 of Part 2 of Annex I, **where relevant**;

##### *Justification*

*For many substances, there is only an entry in Part 1 of Annex I, not in Part 2, so it has to be clarified that these two Annexes do not apply in a cumulative manner.*

## **Amendment 25**

**Proposal for a directive**  
**Article 3 – paragraph 1 – point 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. 'neighbouring establishment' or 'neighbouring site' means an establishment or site that is operating within the impact zone of an establishment;**

**Amendment 26**

**Proposal for a directive**  
**Article 3 – paragraph 1 – point 4**

*Text proposed by the Commission*

*Amendment*

4. 'new establishment' means an establishment that is **newly** constructed or **has yet to enter** into operation;

4. 'new establishment' means an establishment that is constructed or **enters** into operation **after 1 June 2015, or that due to modifications to its installations, activities or to its inventory of dangerous substances after 1 June 2015 falls within the scope of this Directive;**

**Amendment 27**

**Proposal for a directive**  
**Article 3 – paragraph 1 – point 7**

*Text proposed by the Commission*

*Amendment*

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;

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, railway sidings, docks, unloading quays serving the installation, jetties, warehouses or similar structures, floating or otherwise, necessary for the operation of the installation;

### *Justification*

*The ownership should not be a criterion for the definition of an installation.*

## **Amendment 28**

### **Proposal for a directive**

#### **Article 3 – paragraph 1 – point 8**

##### *Text proposed by the Commission*

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;

##### *Amendment*

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 ***and/or decision-making*** power over the establishment or installation has been delegated;

### *Justification*

*To avoid any loopholes, in case of delegation, the definition of an operator should not be limited to the entity that has decisive economic power over the technical functioning of the establishment.*

## **Amendment 29**

### **Proposal for a directive**

#### **Article 3 – paragraph 1 – point 11**

##### *Text proposed by the Commission*

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.

##### *Amendment*

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, ***or during another severe incident within a storage facility or installation*** in quantities equal to or in excess of the thresholds set out in Parts 1 and 2 of Annex I.

### *Justification*

*The damages caused by an accident such as warehouse fires could be equivalent to those caused by loss of control of an industrial chemical process. As the Directive lays down rules for the prevention of major accidents involving dangerous substances, it is irrelevant if the substance is generated through loss of control of an industrial chemical process or fire or any other cause.*

### **Amendment 30**

#### **Proposal for a directive**

#### **Article 3 – paragraph 1 – point 18 a (new)**

*Text proposed by the Commission*

*Amendment*

***18a. “appropriate safety distance” means the minimum distance at which no possible negative effects can be expected on human health or the environment in the event of a major accident;***

### **Amendment 31**

#### **Proposal for a directive**

#### **Article 3 – paragraph 1 – point 18 b (new)**

*Text proposed by the Commission*

*Amendment*

***18b. 'domino effect' means the occurrence of a major accident in an establishment, caused by an accident in the proximity of that establishment. This may include accidents in establishments as defined in this Directive or on sites that fall outside the scope of this Directive.***

### **Amendment 32**

#### **Proposal for a directive**

#### **Article 4 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Where it is demonstrated, on the basis of the criteria ***referred to*** in ***paragraph 4 of***

1. Where it is demonstrated, on the basis of the criteria ***set out*** in ***Annex VII*** to this

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**.

**Directive**, that particular substances **or mixtures** covered by Parts 1 or 2 of Annex I are **under specific conditions** incapable of creating a major accident hazard, in particular due to their physical form, properties, classification, concentration or generic packaging, **and should thus benefit from a derogation**, the Commission may **adopt delegated acts in accordance with Article 17 and 24 in order to** list those substances **and mixtures together with the applicable conditions**, in Part 3 of Annex I.

### Amendment 33

#### Proposal for a directive

#### Article 4 – paragraph 2 – subparagraph 2

##### *Text proposed by the Commission*

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

##### *Amendment*

The Commission shall **consult** the forum referred to in Article 17(2) **prior to listing substances in Part 3 of Annex I and about** notifications **made pursuant to the first subparagraph of this paragraph**.

*(Linked to the amendment to Article 17(2) that seeks to include stakeholders into the forum)*

##### *Justification*

*The Commission should consult stakeholders on these decisions.*

### Amendment 34

#### Proposal for a directive

#### Article 4 – paragraph 3 – subparagraph 1

##### *Text proposed by the Commission*

**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

##### *Amendment*

**Without prejudice to paragraph 1, where** it is demonstrated, on the basis of the criteria referred to in **Annex VII**, that particular substances present at an individual establishment or any part thereof and listed in Parts 1 or 2 of Annex I are

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.

incapable of creating a major accident hazard, due to the specific conditions pertaining in the establishment *regarding* the nature of the packaging and containment of the substance or the location and quantities involved, the competent authority *of the Member State* may decide not to apply the requirements set out in *Article 9, point (b) of Article 10, Article 11 and Article 13(2)* of this Directive to the establishment concerned.

#### *Justification*

*While paragraph 1 allows for derogations at EU level for specific substances and only under specific circumstances, Article 4.3 allows **the competent authority of the Member State to authorize** derogations at the level of individual establishments. As the level of protection should not decrease, it is proposed to maintain in all cases at least the lower-tier requirements and to only allow for derogations for the information requirements for upper-tier establishments.*

### **Amendment 35**

#### **Proposal for a directive**

#### **Article 4 – paragraph 3 – subparagraph 2**

##### *Text proposed by the Commission*

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.

##### *Amendment*

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 *and the nature of the applicable specific conditions*. The Member State concerned shall give reasons for the exclusion.

#### *Justification*

*The conditions to be applied must be clearly specified.*

## **Amendment 36**

### **Proposal for a directive**

#### **Article 4 – paragraph 3 – subparagraph 3**

*Text proposed by the Commission*

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.

*Amendment*

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

*Justification*

*It is important that the forum is regularly informed about the lists with derogations provided by the competent authorities, which should in principle be more often than once a year.*

## **Amendment 37**

### **Proposal for a directive**

#### **Article 4 – paragraph 4**

*Text proposed by the Commission*

***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.***

*Amendment*

***deleted***

*Justification*

*As the criteria in Annex VII define the scope of the derogations in Article 4.1 and 4.3 they form an essential part of this Directive. Therefore they should not be established by delegated acts. It is not acceptable to leave the Annex completely empty during the legislative procedure. The proposed amendment to Annex VII includes the existing criteria as specified in Commission decision 98/433/EC of 26 June 2008. The Commission is invited to come forward with a proposal for new criteria, so that they can still be included in the basic act.*

## **Amendment 38**

### **Proposal for a directive**

#### **Article 4 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

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.

*Amendment*

Where a Member State considers that a dangerous substance not listed in Parts 1 or 2 of Annex I, presents a major-accident hazard, ***or that a threshold is too high***, it may take appropriate measures and shall notify the Commission.

*Justification*

*Member States should also be allowed to take action when they consider a threshold to be too high.*

**Amendment 39**

**Proposal for a directive**

**Article 4 – paragraph 5 – subparagraph 2**

*Text proposed by 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.

*Amendment*

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

*Justification*

*The Commission should consult stakeholders on these decisions.*

**Amendment 40**

**Proposal for a directive**

**Article 4 – paragraph 5 – subparagraph 3**

*Text proposed by the Commission*

***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.***

*Amendment*

***In the event that the Commission considers that the non-listed dangerous substance which has prompted a measure as referred to in the first subparagraph of this paragraph should be listed in Part 1 or Part 2 of Annex I it shall present to that effect a legislative proposal to the European Parliament and to the Council.***

### *Justification*

*Contrary to paragraph 1, where it concerns very specific well defined cases, the addition of substances to Part 1 or 2 could result in a substantial extension of the scope, with potentially large economic impacts. As Member States may take appropriate measures if they consider that a dangerous substance presents a major-accident hazard, they will be able to act anyhow if necessary. The Commission will notify the other Member States. Changing the scope for the EU as a whole should however subsequently take place through the ordinary legislative procedure.*

### **Amendment 41**

#### **Proposal for a directive**

#### **Article 4 – paragraph 5 – subparagraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

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

### *Justification*

*While the listing of new substances should be done by the ordinary legislative procedure as suggested by the rapporteur in his amendment 11, the change of the threshold following a national notification could be done by a delegated act.*

### **Amendment 42**

#### **Proposal for a directive**

#### **Article 5 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall ensure that the establishment operates according to best available techniques, in particular in relation to safety aspects, pursuant to Directive 2010/75/EU of the European Parliament and of the Council of 14 November 2010 on industrial emissions (integrated pollution prevention and control)<sup>1</sup>, without any derogations.***

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<sup>1</sup> OJ L 334, 17.12.2010, p. 17.

*Justification*

*Seveso sites should comply with best available techniques without any exceptions.*

**Amendment 43**

**Proposal for a directive**

**Article 6 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. Member States shall require the operator to send the competent authority a notification containing the following details:

1. Member States shall require the operator to send the competent authority **and local authorities** a notification containing the following details:

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

**Amendment 44**

**Proposal for a directive**

**Article 6 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) the name **or** trade name of the operator and the full address of the establishment concerned;

(a) the name **and / or** trade name of the operator and the full address of the establishment concerned;

*Justification*

*This amendment is necessary for clarification purposes.*

**Amendment 45**

**Proposal for a directive**

**Article 6 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) the name, trade name and address of**

*any sub-contractors;*

#### **Amendment 46**

##### **Proposal for a directive**

##### **Article 6 – paragraph 1– point c**

*Text proposed by the Commission*

*Amendment*

(c) the name **or** position of the person in charge of the establishment, if different from point (a);

(c) the name **and** position of the person in charge of the establishment, if different from point (a);

*Justification*

*This amendment is necessary for clarification purposes.*

#### **Amendment 47**

##### **Proposal for a directive**

##### **Article 6 – paragraph 1– point d**

*Text proposed by the Commission*

*Amendment*

(d) information sufficient to identify the dangerous substances **or** category of substances involved;

(d) information sufficient to identify the dangerous substances **and** category of substances involved;

*Justification*

*This amendment is necessary for clarification purposes.*

#### **Amendment 48**

##### **Proposal for a directive**

##### **Article 6 – paragraph 1– point e**

*Text proposed by the Commission*

*Amendment*

(e) the quantity and physical form of the dangerous substance or substances **involved**;

(e) the quantity, **nature** and physical form of the dangerous substance or substances **concerned**;

### *Justification*

*This amendment is necessary for clarification purposes.*

#### **Amendment 49**

##### **Proposal for a directive**

##### **Article 6 – paragraph 1 – point g**

###### *Text proposed by the Commission*

(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.

###### *Amendment*

(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, as well as of other sites, areas and developments that could *be the source of, or* increase the risk or consequences of a major accident and of domino effects, *provided that this information is available to the operator.*

#### **Amendment 50**

##### **Proposal for a directive**

##### **Article 6 – paragraph 1 – point g a (new)**

###### *Text proposed by the Commission*

###### *Amendment*

*(ga) a certificate from the management of the establishment to the effect that the operator would be able to deal with the consequences of an accident involving dangerous substances.*

#### **Amendment 51**

##### **Proposal for a directive**

##### **Article 6 – paragraph 2 – introductory part**

###### *Text proposed by the Commission*

2. The notification shall be sent to the competent authority within the following

###### *Amendment*

2. The notification shall be sent to the competent authority *and local authorities*

time-limits:

within the following time-limits:

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

**Amendment 52**

**Proposal for a directive**

**Article 6 – paragraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

(a) for new establishments, ***a reasonable period of time*** prior to the start of construction or operation,

(a) for new establishments, ***at least six months*** prior to the start of construction or operation ***or modifications***,

*Justification*

*Clarity of the legislative text.*

**Amendment 53**

**Proposal for a directive**

**Article 6 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

(b) for existing establishments, ***one year*** from the date laid down in the second subparagraph of Article 28(1),

(b) for existing establishments, ***three months*** from the date laid down in the second subparagraph of Article 28(1),

**Amendment 54**

**Proposal for a directive**

**Article 6 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) for subsequent establishments, ***one year*** from the date on which this Directive applies to the establishment concerned.

(c) for subsequent establishments, ***three months*** from the date on which this Directive applies to the establishment concerned.

**Amendment 55**

**Proposal for a directive**  
**Article 6 – paragraph 4 – introductory part**

*Text proposed by the Commission*

4. The operator shall immediately inform the competent authority of the following events:

*Amendment*

4. The operator shall immediately inform the competent authority **and local authorities** of the following events:

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

**Amendment 56**

**Proposal for a directive**  
**Article 6 – paragraph 5**

*Text proposed by the Commission*

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.

*Amendment*

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 **and local authorities** without delay.

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

**Amendment 57**

**Proposal for a directive**  
**Article 7 - paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

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.

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 timetable and measures for the attainment of these objectives** the role and responsibility of management and shall **demonstrate how a high level of protection** with respect to major-accident hazards **is continuously ensured**.

## Amendment 58

### Proposal for a directive

#### Article 7 – paragraph 2 – introductory part

*Text proposed by the Commission*

2. The MAPP shall be sent to the competent authority within the following time-limits:

*Amendment*

2. The **document setting out the** MAPP shall be sent to the competent authority **and local authorities** within the following time-limits:

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

## Amendment 59

### Proposal for a directive

#### Article 7 – paragraph 2 – point a

*Text proposed by the Commission*

a) for new establishments, **a reasonable period of time** prior to the start of construction **or operation**;

*Amendment*

a) for new establishments, **at least six months** prior to the start of construction,

*Justification*

*See Amendment 8. Clarity of the legislative text.*

## Amendment 60

### Proposal for a directive

#### Article 7 – paragraph 2 – point a

*Text proposed by the Commission*

(a) for new establishments, a reasonable period of time prior to the start of construction **or** operation,

*Amendment*

(a) for new establishments, a reasonable period of time prior to the start of construction, operation **or modification**,

#### *Justification*

*This amendment is linked to the amendment to Article 3.4, which includes modifications in the definition of new establishments.*

## Amendment 61

### Proposal for a directive

#### Article 7 - paragraph 4

*Text proposed by the Commission*

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.

*Amendment*

4. The operator shall periodically review and where necessary update the MAPP, at least every five years. The updated **document setting out the** MAPP shall be sent to the competent authority without delay **and made publicly available upon request.**

## Amendment 62

### Proposal for a directive

#### Article 7 - paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**4a. The MAPP shall be implemented by appropriate means, structures and management systems. For upper-tier establishments, it shall be implemented by safety management systems in accordance with Annex III. Member States shall 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 organisation or activities of the establishment, unless they consider it unnecessary.*

## Amendment 63

### Proposal for a directive Article 8 – paragraph 1

#### *Text proposed by the Commission*

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.

#### *Amendment*

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 requests pursuant to Article 8(1a)*** 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, ***or the natural risks associated with their geographical position,*** and their inventories of dangerous substances, ***or the proximity of other sites.***

## Amendment 64

### Proposal for a directive Article 8 – paragraph 1 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***1a. For the purpose of paragraph 1, where the information provided by the operators pursuant to point (g) of Article 6(1) is not sufficient or available, the Member State shall ensure that the competent authority obtains information directly from the neighbouring establishments or sites, and makes it***

*available to the operators.*

## **Amendment 65**

### **Proposal for a directive**

#### **Article 8 – paragraph 2 – point b**

*Text proposed by the Commission*

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.

*Amendment*

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

## **Amendment 66**

### **Proposal for a directive**

#### **Article 8 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Member States shall ensure that the competent authority takes into account the domino effect when drawing up external emergency plans.***

## **Amendment 67**

### **Proposal for a directive**

#### **Article 9 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) demonstrating that internal emergency plans have been drawn up and supplying information to enable the external emergency plan to be drawn up;

*Amendment*

(d) demonstrating that internal emergency plans have been drawn up ***in close consultation with workers,*** and supplying information to enable the external emergency plan to be drawn up;

## **Amendment 68**

**Proposal for a directive**  
**Article 9 – paragraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

3. The safety report shall be sent to the competent authority within the following time-limits:

3. The safety report shall be sent to the competent authority **and local authorities** within the following time-limits:

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

**Amendment 69**

**Proposal for a directive**  
**Article 9 – paragraph 3 – point a**

*Text proposed by the Commission*

*Amendment*

(a) for new establishments, a reasonable period of time prior to the start of construction **or** operation,

(a) for new establishments, a reasonable period of time prior to the start of construction, operation **or modifications, and at the latest at the time of application for an operating permit pursuant to Article 12 of Directive 2010/75/EU.**

*Justification*

*This amendment is linked to the amendment to Article 3.4, which includes modifications in the definition of new establishments.*

**Amendment 70**

**Proposal for a directive**  
**Article 9 – paragraph 5 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The operator shall review and, where necessary, update the safety report following a major accident.***

*Justification*

*An accident will of course imply a review of the authorization, but in any case the safety*

*report has to be reviewed as its foreseen risk management didn't deserve the prevention aims to which it has been drafted to.*

## **Amendment 71**

### **Proposal for a directive**

#### **Article 9 – paragraph 5 – subparagraph 3**

##### *Text proposed by the Commission*

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

##### *Amendment*

The updated safety report shall be sent to the competent authority **and local authorities** without delay.

##### *Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

## **Amendment 72**

### **Proposal for a directive**

#### **Article 9 – paragraph 7**

##### *Text proposed by the Commission*

**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.**

##### *Amendment*

**deleted**

## **Amendment 73**

### **Proposal for a directive**

#### **Article 10 – introductory part**

##### *Text proposed by the Commission*

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-

##### *Amendment*

In the event of the modification of an installation, establishment, storage facility, or process or of the nature, **physical form** or quantity of dangerous substances which could **result in an increase in the risk or**

accident hazards, the Member States shall ensure that the operator:

have **serious** repercussions on major-accident hazards, the Member States shall ensure that the operator:

#### *Justification*

*It is unclear what is meant with 'significant repercussions'. Whenever the modification could result in an increase of the risk or consequences of major-accident hazards, the MAPP, safety report and safety management system should be reviewed and where necessary revised.*

#### **Amendment 74**

##### **Proposal for a directive**

##### **Article 11 – paragraph 3 – subparagraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) communicating the relevant information to sub-contractors at the site;***

#### **Amendment 75**

##### **Proposal for a directive**

##### **Article 11 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

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.

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 local authority in whose area the undertaking is sited, and*** the public, ***are*** 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.

#### **Amendment 76**

## Proposal for a directive

### Article 12 – paragraph 1 – introductory part

#### *Text proposed by the Commission*

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:

#### *Amendment*

Member States shall **pursue** the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment in their land-use policies or other relevant policies through controls on:

## Amendment 77

## Proposal for a directive

### Article 12 – paragraph 1 – point c

#### *Text proposed by the Commission*

(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.

#### *Amendment*

(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 **be the source of or** increase the risk or consequences of a major accident.

## Amendment 78

## Proposal for a directive

### Article 12 – paragraph 2 – introductory part

#### *Text proposed by the Commission*

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:**

#### *Amendment*

Member States shall **pursue in** their land-use or other relevant policies and the procedures for implementing those policies:

## Amendment 79

**Proposal for a directive**  
**Article 13 – paragraph 1**

*Text proposed by the Commission*

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*.

*Amendment*

1. Member States shall ensure that the information referred to in ***Part 1 and 2 of Annex V*** is permanently available to the public, including in an electronic format, ***and that the information referred to in Part 2a of Annex V is made available to the public at least upon request.*** The information shall be ***kept up to date, and*** reviewed at least ***every three years***.

**Amendment 80**

**Proposal for a directive**  
**Article 13 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

(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;

*Amendment*

(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. ***That information shall be worded clearly and in a way that is intelligible to the public;***

*Justification*

*It is important that information passed on persons likely to be affected is worded intelligibly and does not give rise to any doubts as to the correct action to take in the event of an accident.*

**Amendment 81**

**Proposal for a directive**  
**Article 13 – paragraph 2 – subparagraph 1 – point b**

*Text proposed by the Commission*

(b) the safety report is made available to the public upon request subject to Article

*Amendment*

(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;

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 **on human health and the environment** and the requisite behaviour in the event of an accident, shall be made available;

## Amendment 82

### Proposal for a directive

#### Article 13 – paragraph 2 – subparagraph 2

##### *Text proposed by the Commission*

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.

##### *Amendment*

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 **pre-school facilities**, schools and hospitals, **other public amenities**, 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. **That information shall be updated in particular in the event of modification as referred to in Article 10.**

##### *Justification*

*In order to ensure the safety of persons affected, and to ensure that such persons take appropriate action, it is important that information on an emergency reaches the greatest possible number of persons potentially likely to be affected. This information should be updated in the event of modifications to an installation, establishment or storage facility.*

## Amendment 83

### Proposal for a directive

#### Article 13 – paragraph 3

*Text proposed by the Commission*

*Amendment*

**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 Council.**

**deleted**

#### **Amendment 84**

##### **Proposal for a directive Article 13 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

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.

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 inform the other Member State ***of that decision and of its reasons for taking that decision.***

#### **Amendment 85**

##### **Proposal for a directive Article 14 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that the public is ***able to give its opinion on*** the following matters:

1. Member States shall ensure that the public is ***given early and effective opportunities to participate in*** the following matters:

#### *Justification*

*In order to be consistent with the Aarhus Convention, the same wording used in Article 24 of the Industrial Emissions Directive is used.*

## Amendment 86

### Proposal for a directive Article 15 – title

*Text proposed by the Commission*

*Amendment*

Information to be supplied by the operator following a major accident

Information to be supplied by the operator **and actions to be taken** following a major accident

*Justification*

*This Article does not only concern information to be supplied by the operator (paragraph 1), but also actions and steps to be taken by the competent authority and the operator (paragraph 2).*

## Amendment 87

### Proposal for a directive Article 14 – paragraph 1 – point d a (new)

*Text proposed by the Commission*

*Amendment*

**(da) safety report pursuant to Article 9.**

*Justification*

*As safety reports are a major element to demonstrate that major-accident hazards and possible major-accident scenarios have been identified and that the necessary measures have been taken to prevent such accidents, it is essential that the general public is given the opportunity to be consulted on this matter.*

## Amendment 88

### Proposal for a directive Article 15 – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) to inform the competent authorities;

(a) to inform the competent authorities **and local authorities**;

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

## **Amendment 89**

### **Proposal for a directive**

#### **Article 15 – paragraph 1 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

*(ba) to restore the environment, in the event of proven environmental damage to its original condition, where possible, and to appropriately compensate the population affected, as provided for in Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage<sup>1</sup>;*

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<sup>1</sup> OJ L 143, 30.4.2004, p. 56.

## **Amendment 90**

### **Proposal for a directive**

#### **Article 15 – paragraph 2 - point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(ca) to take all necessary measures to inform victims of their rights; and*

#### *Justification*

*Victims require recognition and support. This is the purpose of the new Article 15(a), which should be introduced to legislate on victims' rights before the directive is implemented.*

## **Amendment 91**

### **Proposal for a directive**

#### **Article 15 – paragraph 2 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) inform the public concerned of the relevant accident and of the measures undertaken by the operator and initiatives undertaken by the competent authority.***

*Justification*

*A relevant accident has to involve the concerned public giving the opportunity to know the consistency of measures undertaken both by the operator and by the competent authority.*

## **Amendment 92**

### **Proposal for a directive Article 17 – title**

*Text proposed by the Commission*

*Amendment*

Competent authority

Competent authority ***and forum***

*(Linked to the amendment to Article 17(2) by the same authors.)*

*Justification*

*The forum should not only consist of representatives of the competent authorities, therefore the title needs to be amended.*

## **Amendment 93**

### **Proposal for a directive Article 17 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

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.

2. The Commission shall regularly convene a forum composed of representatives of the competent authorities of the Member States, ***representatives of industry, workers and non-governmental organisations promoting the protection of human health and/or the environment*** in support of ***the application, implementation and technical adaptation*** of this Directive.

### *Justification*

*The forum should include other relevant stakeholders and be consulted for the application, implementation and technical adaptation of this Directive. There is no need to have an extra clause with regard to cooperation between the Commission and competent authorities, as this should be taken for granted.*

## **Amendment 94**

### **Proposal for a directive**

#### **Article 17 – title**

*Text proposed by the Commission*

*Amendment*

Competent authority

Competent authority **and forum**

*(Linked to the amendment to Article 17(2) by the same authors.)*

### *Justification*

*The forum should not only consist of representatives of the competent authorities, therefore the title needs to be amended.*

## **Amendment 95**

### **Proposal for a directive**

#### **Article 18 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

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 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 **clearly** deficient, **including where the operator has not taken the necessary actions identified in the inspection report and by the deadline set pursuant to Art 19(7).**

### *Justification*

*Whether something is seriously deficient or not is a matter of appreciation, and thus risks to be controversial. Any clear deficiencies should lead to a prohibition of use. Failure to take the necessary action identified in the inspection report is a clear deficiency and should lead to a prohibition of use.*

## Amendment 96

### Proposal for a directive

#### Article 19 – paragraph 4 – subparagraph 1

##### *Text proposed by the Commission*

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.

##### *Amendment*

Based on the *inspection* plans referred to in paragraph 3, the competent authority shall regularly draw up programmes for routine inspections for all establishments including the frequency of *inspections* for different types of establishments.

## Amendment 97

### Proposal for a directive

#### Article 19 – paragraph 4 – subparagraph 2

##### *Text proposed by the Commission*

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.

##### *Amendment*

The period between two site visits shall not exceed one year for upper-tier establishments and three years for lower-tier establishments, *unless the competent authority has drawn up an inspection programme based on a systematic appraisal of major-accident hazards of the establishments concerned*. 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.

##### *Justification*

*This tightening of legislation in the Commission proposal is unjustified in terms of safety technology. The existing system, which takes into account the inspection programme, has proven its worth and provides authorities with the necessary flexibility of a risk-oriented inspection programme. The proposed amendment would burden operators and authorities with extra costs without gain in safety.*

## Amendment 98

**Proposal for a directive**

**Article 19 – paragraph 5 – subparagraph 1 – point c**

*Text proposed by the Commission*

(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 Council.

*Amendment*

(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 Council ***or in a recognised equivalent environmental management system.***

*Justification*

*Recognised environmental management systems other than EMAS should also be an option, for example the ISO systems, which are very often employed by multinational corporations. This is consistent with point a) of Annex III to this proposal for a directive.*

**Amendment 99**

**Proposal for a directive**

**Article 19 – paragraph 8**

*Text proposed by the Commission*

8. Inspections shall ***whenever possible*** be coordinated with inspections under other Union legislation and combined, ***where appropriate.***

*Amendment*

8. Inspections shall be coordinated with inspections under other Union legislation, ***in particular Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)<sup>1</sup>***, and, ***to the extent possible,*** combined.

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<sup>1</sup> *OJ L 334, 17.12.2010, p. 17.*

**Amendment 100**

**Proposal for a directive**

**Article 19 – paragraph 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***8a. Where best available technology***

***control systems are in place, inspections can be coordinated with the available data to facilitate the inspections.***

*Justification*

*Article 19 of the draft Directive is geared towards strengthening the inspection criteria of industrial plants. Making use of best available ICT monitoring and control equipment could be a way to optimise the inspections and the results obtained on the plants in question.*

**Amendment 101**

**Proposal for a directive  
Article 20 – paragraph 7**

*Text proposed by the Commission*

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

*Amendment*

7. **Subject to Article 21, the** Commission shall make the databases referred to in paragraphs 3 and 5 available to the public.

*Justification*

*It should be clarified that the publication obligations as written in Article 20, Paragraph 7 is also subject to the principles of the Environmental Information Directive*

**Amendment 102**

**Proposal for a directive  
Article 20 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 20a**

**Reporting**

***Every four years the Commission, on the basis of information submitted by Member States in accordance with Article 16 and of information held in databases, as referred to in Article 20(3) and (5), shall submit to the European Parliament and to the Council a report on the major accidents that have occurred within the Union and their potential impact upon the efficient functioning of this Directive. However, following any accident***

*considered as extremely serious in terms of number of victims or major damage to the environment, a report shall be drawn up with the aim of preventing possible new damage.*

#### *Justification*

*The European Parliament and the Council should regularly receive information on major accidents that have occurred within the European Union. Currently, there is no obligation to report to the European Parliament and the Council on a regular basis.*

#### **Amendment 103**

##### **Proposal for a directive Article 21 - title**

*Text proposed by the Commission*

##### **Article 21 Confidentiality**

*Amendment*

##### **Article 21 Access to information**

#### **Amendment 104**

##### **Proposal for a directive Article 21 - paragraph 2**

*Text proposed by the Commission*

**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.*

*Amendment*

**2. Access to information** granted by the competent authorities under this Directive *shall be handled in accordance with Directive 2003/4/EC.*

#### **Amendment 105**

##### **Proposal for a directive Article 21 - paragraph 3**

*Text proposed by the Commission*

**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

*Amendment*

**3. *If*** the operator has requested not to disclose certain parts of the safety report or the inventory of dangerous substances *the competent authorities may refuse*

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.**

**access in accordance with Article 4** of Directive 2003/4/EC.

## **Amendment 106**

### **Proposal for a directive**

#### **Article 22 – paragraph 1 – introductory part**

##### *Text proposed by the Commission*

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:

##### *Amendment*

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 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 **the provisions of this Directive** where:

##### *Justification*

*In line with the Aarhus convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, the public shall be able to have access to justice and legally review procedural and substantive legality of acts and omissions by private persons or public authorities. Access to justice with regard to other requirements such as general obligations of the operators, inspections and safety reports should therefore also be possible for the public.*

## Amendment 107

### Proposal for a directive Article 22 – paragraph 2

#### *Text proposed by the Commission*

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)**.

#### *Amendment*

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 **or public health** protection and meeting any requirements under national law shall be deemed sufficient for the purpose of **point (a) of the first subparagraph of paragraph 1**.

The organisations referred to in the first subparagraph shall also be deemed to have rights capable of being impaired for the purpose of **point (b) of the first subparagraph of paragraph 1**.

#### *Justification*

*The subparagraphs should refer to paragraph 1(a) and 1(b).*

## Amendment 108

### Proposal for a directive Article 23– paragraph 1

#### *Text proposed by the Commission*

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.

#### *Amendment*

Without prejudice to Article 4, in order to adapt **Part 3 of Annex I and Annexes II to VI** to technical **and scientific** progress, the Commission shall adopt delegated acts in accordance with Article 24 **and Article 17(2)**

## Amendment 109

**Proposal for a directive**  
**Article 23 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Within six months of an adaptation to technical progress being adopted as provided for in Regulation (EC) No 1272/2008, the Commission shall assess whether Annex I needs to be adapted, taking into account the potential for major accidents linked to a substance and the criteria adopted for the purposes of applying Article 4.***

*Justification*

*Adapting the scope of the Seveso Directive to Regulation (EC) No 1272/2008 (CLP) needs to become an ongoing process, as CLP by its very nature indicates.*

**Amendment 110**

**Proposal for a directive**  
**Article 24**

*Text proposed by the Commission*

*Amendment*

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.

***-1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article***

1. The **power** to adopt delegated acts referred to in Articles 4 and 23 shall be conferred on the Commission for an indeterminate period of time **from**\*.

***1a. The delegation of power referred to in Articles 4 and 23 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.***

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.*

2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

3. *A delegated act adopted pursuant to Articles 4 and 23 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.*

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*\* OJ: please enter the date of entry into force of this Directive.*

## **Amendment 111**

### **Proposal for a directive Article 25**

*Text proposed by the Commission*

#### **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.*

*Amendment*

*deleted*

***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.***

## **Amendment 112**

### **Proposal for a directive Article 26**

*Text proposed by the Commission*

*Amendment*

#### **Article 26**

***deleted***

#### ***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.***

## **Amendment 113**

### **Proposal for a directive Article 27 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 27a**

##### **Review**

*By 1 June 2013, the Commission shall examine whether offshore exploration and exploitation of minerals, including hydrocarbons, should be included in the scope of this Directive and, if appropriate, present to a legislative proposal to this effect to the European Parliament and to the Council.*

*By 1 June 2015, the Commission shall examine whether transport of dangerous substances in pipelines, including pumping stations, should be included in the scope of this Directive and, if appropriate, present a legislative proposal to this effect to the European Parliament and to the Council.*

*By 1 June 2015, the Commission shall examine whether further substances meeting the criteria for classification as carcinogenic, mutagenic or toxic to reproduction category 1A or 1B pursuant to Regulation (EC) No 1272/2008, mixtures containing such substances, and certain nanomaterials should be added to Annex I, and, if appropriate, present a legislative proposal to this effect to the European Parliament and to the Council.*

*By 1 June 2015, the Commission shall examine whether any substances meeting the criteria for classification as persistent, bioaccumulative and toxic, or as very persistent or very bioaccumulative in accordance with the criteria set out in Annex XIII of Regulation (EC) No 1907/2007 should be added to Annex I, and if appropriate, present a legislative proposal to this effect to the European*

*Parliament and to the Council.*

*By 1 June 2020, and every three years thereafter, the Commission shall submit to the European Parliament and to the Council a report reviewing the implementation of this Directive on the basis of the information referred to in Article 20. That report shall be accompanied by a legislative proposal where appropriate.*

*Justification*

*In accordance with Article 20.4 Member States shall provide the Commission with a three-yearly report on the implementation of this Directive. The Commission should review the implementation on the basis of these reports and should submit a legislative proposal if this proves to be necessary.*

**Amendment 114**

**Proposal for a directive**

**Annex I – Part 2 – Table – new rows after row 37**

*Text proposed by the Commission*

*Amendment*

<i>Piperidin</i>	<i>110-889-4</i>	<i>50</i>	<i>200</i>
<i>Bis(2-dimethylaminoethyl)(methyl)amin</i>	<i>3030-47-5</i>	<i>50</i>	<i>200</i>
<i>3-(2-Ethylhexyloxy)propylamin</i>	<i>5397-31-9</i>	<i>50</i>	<i>200</i>
<i>Chrom-VI-Verbindungen</i>		<i>5</i>	<i>20</i>
<i>2-(Dimethylamino)ethylacrylat</i>	<i>2439-35-2</i>	<i>5</i>	<i>20</i>
<i>Methansulphonylchlorid</i>	<i>124-63-0</i>	<i>5</i>	<i>20</i>
<i>Dihexylamin</i>	<i>143-16-8</i>	<i>5</i>	<i>20</i>

*Justification*

*These substances were included within the Seveso-II-Directive with the proposed quantities and should not be cancelled by the adaption of the CLP-Regulation.*

## **Amendment 115**

### **Proposal for a directive**

#### **Annex I – Part 2 – Table – row 37 a (new)**

*Text proposed by the Commission*

#### *Amendment*

<b><i>Sodium hypochlorite, solution ...% Cl active</i></b>	<b><i>7681-52-9</i></b>	<b><i>200</i></b>	<b><i>500</i></b>
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#### *Justification*

*The classification changes in Regulation (EC) No 1272/2008 (CLP) concerning mixtures containing sodium hypochlorite are not adequately reflected in the Commission proposal. This concentration limit for acute aquatic toxicity of the substance was modified when CLP was adopted, which impacted the classification of mixtures without increasing the risk of major accidents. Over 200 establishments, warehouses and SMEs could thereby fall under the scope of the Seveso Directive, at a cost of EUR 3 to 4 million for the authorities and the industry.*

## **Amendment 116**

### **Proposal for a directive**

#### **Annex I – Part 2 – Table – row 37 a (new)**

*Text proposed by the Commission*

#### *Amendment*

<b><i>Essential oils and similar substances (note 19a)</i></b>	<b><i>1000</i></b>	<b><i>5000</i></b>
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#### *Justification*

*The thresholds for aquatic environment hazards do not take into account the classification changes in Regulation 1272/2008. Thresholds of 1000 / 5000 T would be better suited to these products, which are agricultural in origin and are packed and stocked in 180 kg net drums, without risk of a domino effect, provided they are stocked in a sealed and collected holding area. A great many firms, often SMEs specialising in the production, storage, distribution or mixing of essential oils would then be Seveso-classified without presenting any new risks of major accidents.*

## **Amendment 117**

### **Proposal for a directive Annex I – part 3 – title**

*Text proposed by the Commission*

*Amendment*

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

Substances and mixtures ***subject to a derogation*** pursuant to Article 4(1)

*Justification*

*Linked to the amendment to Article 2(2)(h), which deletes point (h). The substances and mixtures are only subject to derogation under specific conditions.*

## **Amendment 118**

### **Proposal for a directive Annex I – part 3 – 3rd column title**

*Text proposed by the Commission*

*Amendment*

Quantity (***where applicable***)

Quantity

*Justification*

*The substances and mixtures are only subject to derogation under specific conditions.*

## **Amendment 119**

### **Proposal for a directive Annex I – part 3 – 4th column title**

*Text proposed by the Commission*

*Amendment*

Other conditions ***where applicable***

Other conditions

*Justification*

*The substances and mixtures are only subject to derogation under specific conditions.*

## **Amendment 120**

### **Proposal for a directive Notes to Annex I – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. Mixtures classified as environmental hazards in Sections E1 and E2, part 2, are not taken into account in the determination of prescribed thresholds when they are packaged in limited quantities (inner packaging up to 5 litres/5 kg and combined packaging up to 30 kg) as provided for in the Regulation on the transportation of dangerous goods.***

*Justification*

*As in the case of transport, packaging is a means of reducing the risks of accidental discharge into the environment and applies both to transport and to storage. Given that there is no significant danger of a major accident with products packaged in limited quantities, they ought not to be taken into account when determining the thresholds.*

## **Amendment 121**

### **Proposal for a directive**

#### **Notes to Annex I – paragraph 19 a (new)**

*Text proposed by the Commission*

*Amendment*

***19a. Essential oils and similar substances (1000/5000)***

***This applies to essential oils and similar substances as defined by ISO 9235 standard with the exception of those falling within the hazard classes acute toxicity, category 1, all exposure routes, category 2, all exposure routes and category 3 exposure by dermal and inhalation routes (see note 7), as well as those falling within the hazard class STOT specific target organ toxicity - single Exposure, category 1.***

*Justification*

*The thresholds for aquatic environment hazards do not take into account the classification changes in Regulation 1272/2008. Thresholds of 1000 / 5000 T would be better suited to these products, which are agricultural in origin and are packed and stocked in 180 kg net drums,*

*without risk of a domino effect, provided they are stocked in a impermeable and collected holding area. A great many firms, often SMEs specialising in the production, storage, distribution or mixing of essential oils would then be Seveso-classified without presenting any new risks of major accidents.*

## **Amendment 122**

### **Proposal for a directive Annex II – point 2 – point a**

#### *Text proposed by the Commission*

a) description of the site and its environment including the geographical location, meteorological, geological, hydrographic conditions and, if necessary, its history;

#### *Amendment*

a) description of the site, ***a suitable assessment of its natural risks*** and its environment including the geographical location, meteorological, geological, hydrographic conditions and, if necessary, its history;

## **Amendment 123**

### **Proposal for a directive Annex II – paragraph 2 – point c**

#### *Text proposed by the Commission*

(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;

#### *Amendment*

(c) identification of neighbouring establishments, as well as other sites, areas and developments that could ***be the source of, or*** increase the risk or consequences of a major accident and of domino effects, ***including on the basis of information provided by the authorities;***

#### *Justification*

*In line with Article 6(1)(g) on 'Notification', it should be recognised that operators do not always have the legal means to obtain information and that, if necessary, the authorities should provide the information or see to it that it is provided.*

## **Amendment 124**

### **Proposal for a directive Annex II – point 3 – point a**

*Text proposed by the Commission*

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;

*Amendment*

a) description of the main activities and products of the parts of the establishment, **and identification of sub-contractors**, 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;

**Amendment 125**

**Proposal for a directive  
Annex II – paragraph 3 – point b**

*Text proposed by the Commission*

(b) description of processes, in particular the operating methods;

*Amendment*

(b) description of processes, in particular the operating methods **according to Best Available Techniques pursuant to Directive 2010/75/EU on industrial emissions**;

*Justification*

Compliance with BAT should be part of the description of the process.

**Amendment 126**

**Proposal for a directive  
Annex II – paragraph 4 – point a – point ii**

*Text proposed by the Commission*

(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;

*Amendment*

(ii) external risks and hazard sources, from domino effects and from other sites, areas and developments that could **be the source of, or** increase the risk or consequences of a major accident;

*Justification*

*Other sites may also be the source of the risk.*

**Amendment 127**

**Proposal for a directive**  
**Annex II – point 5 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) description of the assessment of the financial impact of an accident involving dangerous substances and the measures taken to deal with this, in particular by means of a specific insurance policy and/or a sufficient level of equity.***

**Amendment 128**

**Proposal for a directive**  
**Annex III – point b – point v**

*Text proposed by the Commission*

*Amendment*

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

***(v) continuously high level of protection*** — measures to ***continuously ensure a high level of protection with respect to major-accident hazards***;

*Justification*

**Amendment 129**

**Proposal for a directive**  
**Annex III – point b – point vii a (new)**

*Text proposed by the Commission*

*Amendment*

***(vii a) Operators' safety management systems shall consider the potential of best available monitoring and control technology to reduce the risk of system failure and to prevent major-accidents.***

*Justification*

*Annex III of the draft proposal lists safety requirements as well as safety performance indicators and makes reference to monitoring of plants. Best available technology should be considered as a way to optimise the operators' safety management system.*

## Amendment 130

### Proposal for a directive

#### Annex III – point b – point viii a (new)

*Text proposed by the Commission*

*Amendment*

***(viii a) Competent authorities shall consider the information on best available technologies for control of emission in industrial plants established in Best Available Technology Reference Documents under Directive 2010/75/EU to the extent possible.***

## Amendment 131

### Proposal for a directive

#### Annex IV – Part 1 – point e a (new)

*Text proposed by the Commission*

*Amendment*

***(ea) Arrangements for training staff in the duties they will be expected to perform and, where necessary, coordinating this with off-site emergency services.***

#### *Justification*

*It was compulsory to include Information on the training of staff in the emergency plans under the Seveso II directive (96/82/EC) pursuant to point (f) of part I of Annex IV to the Directive. The Commission did not include this in Annex IV of the Seveso III directive. As training is essential it should be reinserted in the Annex.*

## Amendment 132

### Proposal for a directive

#### Annex V – Part 1 – point 3

*Text proposed by the Commission*

*Amendment*

3. An explanation in simple terms of the activity or activities undertaken at the establishment.

3. An explanation in simple terms of the activity or activities undertaken at the establishment ***and of the dangerous substances involved.***

## *Justification*

*It is important that the information provided to the public is comprehensible and presented in simple terms, including the information on the dangerous substances. More technical information might in some cases be confidential for economic or security reasons. It would be up to the Member States to decide whether they also want to put the technical names and technical information on the internet, **in accordance with the amendment on Annex V, Part 2a (new), paragraph 1, or whether they consider this to be inappropriate for economic or security reasons.***

### **Amendment 133**

#### **Proposal for a directive Annex V – Part 1 – point 4**

##### *Text proposed by the Commission*

***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.***

##### *Amendment*

***4. The common names and, in the case of dangerous substances covered by Part 1 of Annex 1, the generic names and 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 in simple terms.***

### **Amendment 134**

#### **Proposal for a directive Annex V – Part 1 – point 5 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

***5a. Adequate information on how the population concerned will be warned and kept informed by the competent authorities or by their local offices in the event of a major accident.***

### **Amendment 135**

**Proposal for a directive**  
**Annex V – Part 1 – point 5 b (new)**

*Text proposed by the Commission*

*Amendment*

***5b. Adequate information provided by the authorities on the actions the population concerned should take, and on the behaviour they should adopt, in the event of a major accident.***

**Amendment 136**

**Proposal for a directive**  
**Annex V – Part 1 – point 6**

*Text proposed by the Commission*

*Amendment*

***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.***

***6. Information on when the last inspections have been carried out pursuant to Article 19, and information on where the main findings from the inspections and the related inspection plan can be requested.***

**Amendment 137**

**Proposal for a directive**  
**Annex V – Part 2 – point 2**

*Text proposed by the Commission*

*Amendment*

***2. Adequate information on how the population concerned will be warned and kept informed in the event of a major accident.***

***deleted***

**Amendment 138**

**Proposal for a directive**  
**Annex V – Part 2 – point 3**

*Text proposed by the Commission*

*Amendment*

**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.** *deleted*

#### **Amendment 139**

##### **Proposal for a directive Annex V – Part 2 – point 5**

*Text proposed by the Commission*

*Amendment*

**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.** *deleted*

#### **Amendment 140**

##### **Proposal for a directive Annex V – Part 2– point 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5a. External emergency plans**

#### **Amendment 141**

##### **Proposal for a directive Annex V – Part 2 – point 6 a (new)**

*Text proposed by the Commission*

*Amendment*

**6a. Non-technical summaries of the safety report**

#### **Amendment 142**

**Proposal for a directive**  
**Annex V – Part 2 a (new) - Title**

*Text proposed by the Commission*

*Amendment*

***Information to be made available at least upon request for all establishments covered by this Directive:***

**Amendment 143**

**Proposal for a directive**  
**Annex V – Part 2 a (new) - point 1**

*Text proposed by the Commission*

*Amendment*

***1. Summary details of the inspections carried out pursuant to Article 19 and of the main findings from the latest inspection conclusions and the related inspection plan.***

**Amendment 144**

**Proposal for a directive**  
**Annex VI – Part I - point 1**

*Text proposed by the Commission*

*Amendment*

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.

Any fire or explosion or accidental discharge of a dangerous substance involving a quantity of at least **5** % of the qualifying quantity laid down in column 3 of Annex I.

*Justification*

*The proposed tightening would not lead to any gain in safety. Practice has shown that notification according to the 5% threshold is perfectly sufficient. By contrast, the Commission proposal would mean a disproportionately high amount of documentation for both operators and authorities.*

## **Amendment 145**

### **Proposal for a directive Annex VII**

*Text proposed by the Commission*

#### **CRITERIA FOR DEROGATIONS PURSUANT TO ARTICLE 4**

*Amendment*

#### **CRITERIA FOR DEROGATIONS PURSUANT TO ARTICLE 4**

*A derogation in accordance with Article 4(1) and 4(3) may be granted if at least one of the following generic criteria is fulfilled:*

##### *1. Physical form of substance*

*Substances in solid form, such that, under both normal conditions and any abnormal conditions which can reasonably be foreseen, a release of matter or of energy, which could create a major-accident hazard, is not possible.*

##### *2. Containment and quantities*

*Substances packaged or contained in such a fashion and in such quantities that the maximum release possible under any circumstances cannot create a major-accident hazard.*

##### *3. Location and quantities*

*Substances present in such quantities and at such distances from other dangerous substances (at the establishment or elsewhere) that they can neither create a major-accident hazard by themselves nor initiate a major accident involving other dangerous substances.*

##### *4. Classification*

*Substances which are defined as dangerous substances by virtue of their generic classification in Part 1 of Annex I to this Directive, but which cannot create a major-accident hazard, and for which therefore the generic classification is inappropriate for this purpose.*

### *Justification*

*As the criteria in Annex VII define the scope of the derogations in Article 4.1 and 4.3 they form an essential part of this Directive. Therefore they should not be established by delegated acts. It is not acceptable to leave the Annex completely empty during the legislative procedure. This amendment includes the existing criteria as specified in Commission decision 98/433/EC of 26 June 2008. The Commission is invited to come forward with a proposal for new criteria, so that they can still be included in the basic act.*

## EXPLANATORY STATEMENT

### 1. Background

Major industrial accidents, such as the accidents in **Seveso (Italy, 1976)**, Bhopal (India, 1984), Schweizerhalle (Switzerland, 1986), Enschede (Netherlands, 2000), Toulouse (France, 2001) and Buncefield (United Kingdom, 2005), have taken many lives, destroyed public and private properties and damaged the environment, resulting in costs up to billions of euro. To reduce the likelihood and the consequences of such accidents the EU first adopted Directive 82/501/EEC (Seveso I Directive) and later the current Directive 96/82/EC (Seveso II Directive; amended by Directive 2003/105/EC, covering around 10.000 establishments where **dangerous substances** (or mixtures thereof) are **present in sufficiently large quantities to create a major-accident hazard**. It contains obligations on operators and the Member States' authorities to prevent accidents and to limit their consequences. There is a tiered approach to the level of obligations on the operators, with the larger the quantities of substances the stricter the rules. All operators of establishments under the scope of the directive need to send **notification** to the competent authority and to establish a **major accident prevention policy**. In addition operators of so called "upper tier establishments" need to establish a **safety report**, a **safety management system** and an **emergency plan**.

#### *Why should the Seveso II Directive be revised?*

The EU's CLP Regulation (Regulation (EC) No. 1272/2008 on Classification, Labelling and Packaging of dangerous substances and mixtures), implements the United Nations' Globally Harmonised System of Classification and Labelling of Chemicals (GHS). The new CLP rules will become definitive with effect from **1 June 2015**.

Annex I to the Seveso II Directive lists the dangerous substances falling within its scope, which refers to provisions of the earlier 'classification Directives' 67/548/EEC and 1999/45/EC. Since **the CLP Regulation replaces these Directives**, the integration of the new CLP rules into the Seveso II Directive is hence a downstream legislation issue.

#### *The approach adopted by the Commission*

In the light of the needed CLP alignment, the Commission decided in 2008 to launch a **wider review of the Seveso Directive**. On the basis of this review the Commission concluded **that overall the existing provisions are fit for purpose and that no major changes regarding the basic structure and the main provisions are required**.

The Commission did however propose substantial changes related to the implementation of the Aarhus Convention on **access to information, public participation in decision making and access to justice** in environmental matters and to the increasing use of the **internet**. Furthermore the Commission proposed to strengthen the existing requirements in relation to **inspections**.

## 2. Guiding principles

For his amendments to the Commission proposal the Rapporteur used the following guiding principles:

- The **current Directive** seems to **function well**; the Rapporteur does not see the need for major changes regarding the basic structure and the main provisions.
- The revision is necessary because of the **required alignment** to the CLP Regulation.
- Since no one-to-one translation is possible, the used alignment method should at least maintain the **same level of protection** as the current Directive.
- Correction mechanisms are necessary in order to handle **unintended changes in the scope**.
- Certain obligations arising from the registration and classification of substances have already been agreed under the REACH and CLP Regulations; thus the revision should **not be used to reopen discussions** on such obligations (e.g. performing laboratory tests).
- Changes to the current **Directive should improve implementation and enforceability** and thereby **increase the level playing field and where possible** reduce the administrative burden for industry.
- **Access to information, public participation in decision making and access to justice** is essential for ensuring a high level of protection;
- To prevent possible domino effects, a smooth cooperation and exchange of information should be ensured between competent authorities, establishments and neighbouring sites

## 3. Key issues

### *a) The alignment of Annex I to the CLP Regulation*

The CLP Regulation introduces a new, **more sophisticated classification system** in particular regarding the cause to effect relationship between human contact with dangerous substances and the resulting health hazards.

Under the previous classification system, the degree of toxicity of a given substance was expressed by means of **two toxicity classes** (T and T+) only, and **differentiation** based on type of contact with the dangerous substance **was not possible at all**.

The new classification system introduces **3 toxicity classes** (Acute Toxic 1, 2 and 3) which are further fine tuned **via 5 possible exposure routes** (oral; dermal; inhalation gas; inhalation vapour; inhalation aerosol).

The added value of the new system is a **more exact identification method** of the direct threat on human life and health, taking into account the following **factors**:

- the **nature of human contact** with dangerous substances through the different exposure routes,
- the **level of threat on human life** represented by the dangerous substance, expressed by the acute toxicity class of the substance in question (resulting from the examination of the Lethal Dose or Lethal Concentration parameter of the substance).

Since scientific evidence shows that the above three acute toxicity classes represent a level of **unacceptable threat on human health**, due to their lethal consequences or to the long-lasting damages on human health, Seveso-relevant substances falling into these categories shall be covered by the Directive.

According to the current available information it seems that the Commission proposal maintains the same level of protection and would just result in a small change in the number of establishments involved. The Rapporteur therefore chose not to amend the proposed methodology.

#### ***b) The derogations framework***

The mechanism proposed by the Commission for derogations contains an EU-wide substance derogation and an establishment-specific derogation triggered at Member State level based on harmonised criteria. The Commission proposes to establish both of them by delegated acts. The Rapporteur does not support this approach, for the following reasons:

- The ***harmonised criteria*** for derogations should already be defined in the basic legislative act and not by delegated acts.
- **The possibility for the competent authority to waive all obligations stemming from Articles 7 to 19 could decrease the level of protection**; the proposal is therefore to allow the competent authority to waive only those information requirements which are required for upper-tier establishments (Article 9, (10(b), 11, 13(2)).

It needs to be emphasised that in the proposal by the Rapporteur the substance derogation will not result in the full exemption of a substance; it is not ‘taking a substance out’ of the scope. It rather defines **specific circumstances** (e.g. form of packaging) under which that substance may not represent a significant hazard.

#### ***c) Access to information, public participation in decision making and access to justice***

The Rapporteur supports the Commission regarding the improvement of the level and quality of information, the public participation in the decision making process and access to justice. The public needs to be well informed and have immediate access to information relevant for participating in the decision making process and for acting in case of an accident. At the same time the information disclosed does however need to be comprehensible. Where necessary and appropriate for economic and security reasons, confidentiality of information needs to be ensured. Annex V contains the items of information to be made permanently available to the public, including through the internet. Item 4 (technical information on the dangerous substances) and item 6 (findings of the inspections) might potentially be too detailed and technical and might create problems of confidentiality. The Rapporteur therefore proposes a requirement to **explain the dangerous substances in simple terms on the internet and to indicate when an establishment has been inspected**. The more detailed and specialised info on the dangerous substances and on the inspections should at least be made available on request. The Member States can then decide themselves whether they consider it to be appropriate to put also the more detailed and technical information on the internet.

#### ***d) Inspections***

The Commission strengthens the requirements in relation to inspections. The same frequency is followed as in article 23 of the Industrial Emissions Directive (IED) 2010/75/EU, where the period between two site visits shall not exceed 1 year for installations posing the highest risks and 3 years for installations posing the lowest risks. The High Level Group of Independent Stakeholders on Administrative Burdens set up by the Commission estimated in its opinion on the priority area Environment that around half of the installations that fall under the Seveso II Directive also fall under the IED. Coordination or integration between these types of inspections would reduce the administrative burden related to the preparation, presence of inspectors and follow up. Therefore, the Rapporteur encourages Member States to facilitate such coordination. The proposed provisions on inspections contribute to improved implementation and thereby increase the level of protection and the level playing field.

#### **4. Concluding remarks**

The proposed revision of the Seveso II Directive is necessary and the Commission rightly chose to maintain the level of protection and to avoid large changes in the scope. The Rapporteur supports the methodology chosen by the Commission for the alignment to the CLP Directive. In line with the outcome of the review and the Commission proposal, no major changes regarding the basic structure and the main provisions of the current Directive are needed. One of the Rapporteur's main concerns is the proposal by the Commission to use delegated acts for changes to Annex I, which defines the scope of the Directive. As Annex I is an essential part of the Directive, the Rapporteur proposes to only allow for modifications through the ordinary legislative procedure. The addition of substances could lead to substantial changes in the scope with potentially large economic impacts. The European Parliament should be able to exercise its full powers in the decision process on such additions.

28.9.2011

## **OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY**

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a directive of the European Parliament and of the Council on control of major-accident hazards involving dangerous substances  
(COM(2010)0781 – C7-0011/2011 – 2010/0377(COD))

Rapporteur: Jacky Hénin

### **SHORT JUSTIFICATION**

Directive 96/82/EC, known as the ‘Seveso II Directive’, aims to prevent major accidents involving dangerous substances and to limit their consequences on human health and the environment by analysing risks and taking appropriate precautionary action.

The substances falling within its scope are chiefly used in the chemical industry. The rules apply to establishments where dangerous substances listed in the directive are present above prescribed thresholds (around 10 000 industrial establishments are affected in the EU).

The Commission decided to use the review of the directive made necessary by the adoption and forthcoming entry in force of Regulation (EC) No 1272/2008 on classification, labelling and packaging of dangerous substances and mixtures (hereinafter the ‘CLP Regulation’) – to which the directive refers – as an opportunity to conduct a further review of its essential structure and provisions which had not been amended since its adoption.

The principal changes concern health hazards. The former category ‘very toxic’ has been replaced by the new category ‘acute toxic, category 1’ and the old category ‘toxic’ has been split into ‘acute toxic, category 2’ (applicable to all exposure routes) and ‘acute toxic, category 3’ (dermal and inhalation routes).

Several more new specific categories for physical hazards are introduced by the CLP Regulation to replace the more general old categories for explosive, oxidizing and flammable hazards. The Commission proposes a straightforward transposition, without major changes, for these categories, together with those concerning environmental hazards.

Other proposed changes include new rules on public access to safety information and to justice, as well as public participation in the decision-making process.

## Position of the rapporteur:

Parliament is faced with a simple question:

Is this nothing more than a facelift? Or, given the accidents and natural disasters we have experienced since 1996, are we progressing towards greater safety for people, the environment and society, without pointlessly encumbering industry?

### Particular comments

1) The text leaves Member States too great a **margin for exemptions**, which could give them too much room to avoid principles of prevention and thus should be reduced.

2) The **powers granted to workers** and their elected representative bodies and organisations have been reduced to a bare minimum. Ample provision is made for public information and consultations with both the public (Articles 12 and 13) and NGOs, particularly in Article 22 on access to justice. This is important. However, no reference is made to either joint bodies or trade union organisations. Staff are only mentioned in a passing reference in Article 11 on emergency plans.

This oversight should be rectified for at least two reasons: staff are the group most concerned by safety issues and have ‘shop-floor’ knowledge of how potentially dangerous installations work – an indispensable element in any effective prevention policy.

3) The directive fails to mention any risks related to **subcontracting**. Without restating the underlying causes of the explosion at the AZF Total factory in Toulouse, it has to be said that the directive completely fails to address the question of the effectiveness of such contractual arrangements in preventing risks. The only provisions it contains, in Article 11(4), concern the consultation of relevant long-term subcontracted personnel in drawing up emergency plans.

4) The proposal for a directive does provide for **coordination with the competent authorities**, but what happens, for example, if the labour inspection authorities issue a report criticising working arrangements or security management systems? Furthermore, insufficient reference is made to **emergency and supervisory arrangements** (both human and financial resources).

**5) With regard to natural hazards:** the recent catastrophic accident in Fukushima has categorically shown that systems to address technological risks are insufficient to ensure the safety of installations, workers and the population if they fail to take account of all kinds of natural hazards.

6) The future Seveso III Directive must include provisions on **the transport of dangerous materials**. Dangerous materials are, unfortunately, sometimes transported to locations other than Seveso installations, in order to reduce the amount permanently stocked at such installations and therefore get round safety rules linked to storage thresholds. For the purposes of the relevant regulations, dangerous materials removed from facilities in this way must therefore be included in the amount permanently stored there. Such a measure would encourage installation managers to act in a more responsible manner and help make

our roads safer.

## AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a directive Recital 2

##### *Text proposed by the Commission*

(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.

##### *Amendment*

(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. ***There is therefore a need to ensure that existing high levels of protection are maintained and if possible further improved.***

### Amendment 2

#### Proposal for a directive Recital 2 a (new)

##### *Text proposed by the Commission*

##### *Amendment*

***(2a) Major accidents have often been caused by sub-contractors or have seen their involvement.***

### Amendment 3

**Proposal for a directive**  
**Recital 4**

*Text proposed by the Commission*

(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.

*Amendment*

(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, ***and the level of health and environmental protection should be maintained or even increased.***

**Amendment 4**

**Proposal for a directive**  
**Recital 6**

*Text proposed by the Commission*

(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.

*Amendment*

(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 ***establish and apply safety and risk-reduction measures with a view to preventing possible accidents, reducing the risks of accidents occurring and minimising the effects if they do occur, thereby making it possible to ensure*** a high level of protection throughout the Union. ***The Member States should make every effort to exchange best practices.***

**Amendment 5**

**Proposal for a directive**  
**Recital 11**

*Text proposed by the Commission*

(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.

*Amendment*

(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, ***besides the names of any sub-contractors***, the operator's overall approach and measures, including appropriate safety management systems, for controlling major-accident hazards.

**Amendment 6**

**Proposal for a directive**  
**Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11a) Operators should be able to provide evidence that they would be able deal with the consequences of an accident involving dangerous substances, for example by demonstrating that they have taken out a specific insurance policy with a company of acknowledged solvency or that they have a sufficient level of equity. This is important in order to ensure that dealing with the consequences of an accident involving dangerous substances does not put a strain on the public purse and is included as part of an operator's costs.***

**Amendment 7**

**Proposal for a directive**  
**Recital 12 a (new)**

*Text proposed by the Commission*

*Amendment*

***(12a) In order to reduce the risk of major accidents and of domino effects, due consideration should be given to the interaction between natural sources of danger associated with the location of the undertaking or facility and sources of danger associated with the technologies it uses.***

**Amendment 8**

**Proposal for a directive**  
**Recital 15**

*Text proposed by the Commission*

*Amendment*

(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.

(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, ***especially for small and medium-sized enterprises***, procedures ***and measures*** should be integrated with those under other ***relevant*** Union legislation.

**Amendment 9**

**Proposal for a directive**  
**Recital 19**

*Text proposed by the Commission*

(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.

*Amendment*

(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 ***local authorities and*** communicate the information necessary for them to assess the impact of that accident ***on people's health, on their property and on the environment and to prevent such an accident from happening again.***

**Amendment 10**

**Proposal for a directive**  
**Recital 22 a (new)**

*Text proposed by the Commission*

*Amendment*

***(22a) Each adaptation of Regulation (EC) No 1272/2008 to technical progress should be followed by an assessment of the need to adapt Annex I to this Directive. This would establish a functional link between the two pieces of legislation and ensure that a high level of protection for human health and the environment is maintained.***

**Amendment 11**

**Proposal for a directive**  
**Recital 23**

*Text proposed by the Commission*

(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

*Amendment*

(23) ***In order to adapt this Directive to technical and scientific progress, the power to*** adopt acts in accordance with Article 290 of the Treaty ***on the Functioning of the European Union should be delegated to the Commission*** in

Annexes of this Directive.

respect of amendments to **Part 3 of Annex I, and Annexes II to VI** to this Directive. ***It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.***

#### *Justification*

*This amendment aligns the recital to the new standard clauses on delegated acts. It furthermore clarifies that it should be possible to amend part 3 of Annex I (which changes the scope, but only for very specific situations) and the Annexes II to VI by delegated acts. Amendments to Part 1 and 2 of Annex I and to Annex VII however can have large impacts on the scope and should therefore be dealt with through the ordinary legislative procedure.*

#### **Amendment 12**

##### **Proposal for a directive**

##### **Article 2 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Further extension of the scope of this Directive shall be preceded by an impact assessment.***

#### **Amendment 13**

##### **Proposal for a directive**

##### **Article 3 – point 4**

*Text proposed by the Commission*

*Amendment*

4. ‘new establishment’ means an establishment that ***is newly constructed or has yet to enter*** into operation;

4. ‘new establishment’ means an establishment that ***enters*** into operation ***after 31 May 2015***;

#### **Amendment 14**

**Proposal for a directive**  
**Article 3 – point 18 a (new)**

*Text proposed by the Commission*

*Amendment*

**18a. “appropriate safety distance” means the minimum distance at which no possible negative effects can be registered on human health or the environment in the event of a major accident;**

**Amendment 15**

**Proposal for a directive**  
**Article 3 – point 18 b (new)**

*Text proposed by the Commission*

*Amendment*

**18b. “domino effect” means the possibility of a major accident occurring in an establishment caused by another accident in the vicinity of the establishment, either in another establishment or on a site that falls outside the scope of this Directive.**

**Amendment 16**

**Proposal for a directive**  
**Article 4 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

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***.

1. Where it is demonstrated, on the basis of the criteria ***set out*** in ***Annex VII*** to this ***Directive***, that particular substances ***or mixtures*** covered by Parts 1 or 2 of Annex I are, ***under specific conditions***, incapable of creating a major accident hazard, due to their physical form, properties, classification, concentration or generic packaging, ***and should thus benefit from a derogation***, the Commission may ***adopt delegated acts in accordance with Article 24 in order to*** list those substances ***and mixtures together with the applicable***

**conditions** in Part 3 of Annex I.

### *Justification*

*It should be clarified that paragraph 1 is not meant to completely exclude substances and mixtures from the scope, but that it is meant for those cases where substances and mixtures are under clearly specified conditions incapable of creating a major accident hazard, due to their physical form, properties, classification, concentration or generic packaging. The substances and mixtures are only subject to derogation as far as the conditions as specified in Annex I Part 3 are met. As this will concern very specific situations, it would be acceptable to use delegated acts.*

## **Amendment 17**

### **Proposal for a directive**

#### **Article 4 – paragraph 3 – subparagraph 1**

##### *Text proposed by the Commission*

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.

##### *Amendment*

3. **Without prejudice to paragraph 1, where** it is demonstrated, on the basis of the criteria referred to in **Annex VII**, 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 **regarding** the nature of the packaging and containment of the substance or the location and quantities involved, the **competent authority of the Member State concerned** may decide not to apply the requirements set out in **Article 9, point (b) of Article 10, Article 11 and Article 13(2) of this Directive** to the establishment concerned.

### *Justification*

*While paragraph 1 allows for derogations at EU level for specific substances and only under specific circumstances, Article 4.3 allows the competent authority of the Member State to authorize derogations at the level of individual establishments. As the level of protection should not decrease, it is proposed to maintain in all cases at least the lower-tier requirements and to only allow for derogations for the information requirements for upper-tier establishments.*

## Amendment 18

### Proposal for a directive

#### Article 4 – paragraph 3 – subparagraph 2

##### *Text proposed by the Commission*

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.

##### *Amendment*

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 ***and the nature of the applicable specific conditions***. The Member State concerned shall give reasons for the exclusion.

##### *Justification*

*The conditions to be applied must be clearly specified.*

## Amendment 19

### Proposal for a directive

#### Article 4 – paragraph 3 – subparagraph 3

##### *Text proposed by the Commission*

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.

##### *Amendment*

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

## Amendment 20

### Proposal for a directive

#### Article 4 – paragraph 4

##### *Text proposed by the Commission*

***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***

##### *Amendment*

***deleted***

**Annex VII accordingly.**

*Justification*

*As the criteria in Annex VII define the scope of the derogations in Article 4.1 and 4.3 they form an essential part of this Directive. Therefore they should not be established by delegated acts. It is not acceptable to leave the Annex completely empty during the legislative procedure. The proposed amendment to Annex VII includes the existing criteria as specified in Commission decision 98/433/EC of 26 June 2008. The Commission is invited to come forward with a proposal for new criteria, so that they can still be included in the basic act.*

**Amendment 21**

**Proposal for a directive**

**Article 4 – paragraph 5 – subparagraph 3**

*Text proposed by the Commission*

***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.***

*Amendment*

***In the event that*** the Commission ***considers that*** the ***non-listed dangerous substance which has prompted a measure*** as referred to in the first subparagraph of this paragraph ***should be listed*** in Part 1 or Part 2 of Annex I, ***it shall present a legislative proposal to that effect to the European Parliament and to the Council.***

*Justification*

*Contrary to paragraph 1, where it concerns very specific well defined cases, the addition of substances to Part 1 or 2 could result in a substantial extension of the scope, with potentially large economic impacts. As Member States may take appropriate measures if they consider that a dangerous substance presents a major-accident hazard, they will be able to act anyhow if necessary. The Commission will notify the other Member States. Changing the scope for the EU as a whole should however subsequently take place through the ordinary legislative procedure.*

**Amendment 22**

**Proposal for a directive**

**Article 6 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. Member States shall require the operator to send the competent authority a

*Amendment*

1. Member States shall require the operator to send the competent authority ***and local***

notification containing the following details:

**authorities** a notification containing the following details:

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

**Amendment 23**

**Proposal for a directive**

**Article 6 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) the name, trade name and address of any sub-contractors;**

**Amendment 24**

**Proposal for a directive**

**Article 6 – paragraph 1 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

**(ga) a certificate from the management of the establishment to the effect that the operator would be able to deal with the consequences of an accident involving dangerous substances.**

**Amendment 25**

**Proposal for a directive**

**Article 6 – paragraph 2 – introductory part**

*Text proposed by the Commission*

*Amendment*

2. The notification shall be sent to the competent authority within the following time-limits:

2. The notification shall be sent to the competent authority **and local authorities** within the following time-limits:

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

## Amendment 26

### Proposal for a directive

#### Article 6 – paragraph 2 – point a

*Text proposed by the Commission*

(a) for new establishments, ***a reasonable period of time*** prior to the start of construction or operation,

*Amendment*

(a) for new establishments, ***at least six months*** prior to the start of construction or operation,

*Justification*

*Clarity of the legislative text.*

## Amendment 27

### Proposal for a directive

#### Article 6 – paragraph 4 – introductory part

*Text proposed by the Commission*

4. The operator shall immediately inform the competent authority of the following events:

*Amendment*

4. The operator shall immediately inform the competent authority ***and local authorities*** of the following events:

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

## Amendment 28

### Proposal for a directive

#### Article 6 – paragraph 5

*Text proposed by the Commission*

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.

*Amendment*

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 ***and local authorities*** without delay.

### *Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

## **Amendment 29**

### **Proposal for a directive Article 7 – paragraph 1**

#### *Text proposed by the Commission*

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.

#### *Amendment*

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 **and** the role and responsibility of management with respect to the control of major-accident hazards.

### *Justification*

*The notion of a 'safety culture' has nothing to do with operational requirements.*

## **Amendment 30**

### **Proposal for a directive Article 7 – paragraph 2 – introductory part**

#### *Text proposed by the Commission*

2. The MAPP shall be sent to the competent authority within the following time-limits:

#### *Amendment*

2. The MAPP shall be sent to the competent authority **and local authorities** within the following time-limits:

### *Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

## Amendment 31

### Proposal for a directive

#### Article 7 – paragraph 2 – point a

*Text proposed by the Commission*

a) for new establishments, ***a reasonable period of time*** prior to the start of construction ***or operation***;

*Amendment*

a) for new establishments, ***at least six months*** prior to the start of construction,

*Justification*

*See Amendment 8. Clarity of the legislative text.*

## Amendment 32

### Proposal for a directive

#### Article 8 – paragraph 1

*Text proposed by the Commission*

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.

*Amendment*

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, ***or the natural risks associated with their geographical position***, and their inventories of dangerous substances.

## Amendment 33

### Proposal for a directive

#### Article 8 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. Member States shall ensure that the competent authority takes into account***

*the domino effect when drawing up external emergency plans.*

#### **Amendment 34**

##### **Proposal for a directive**

##### **Article 9 – paragraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

3. The safety report shall be sent to the competent authority within the following time-limits:

3. The safety report shall be sent to the competent authority **and local authorities** within the following time-limits:

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

#### **Amendment 35**

##### **Proposal for a directive**

##### **Article 9 – paragraph 5 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

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

The updated safety report shall be sent to the competent authority **and local authorities** without delay.

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

#### **Amendment 36**

##### **Proposal for a directive**

##### **Article 11 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

(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

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 **two years** following receipt of the

information from the operator pursuant to point (b).

information from the operator pursuant to point (b).

*Justification*

*The nature of the efforts required and the fixed timeframes involved (two-month public consultation, notification, approval, etc.) mean that one year is not enough. The administrative deadlines and consultation periods alone account for more than six months.*

**Amendment 37**

**Proposal for a directive**

**Article 11 – paragraph 3 – subparagraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(ca) communicating the relevant information to sub-contractors at the site;*

**Amendment 38**

**Proposal for a directive**

**Article 11 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

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.

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 local authority in whose area the undertaking is sited, and*** the public, ***are*** 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.

## Amendment 39

### Proposal for a directive

#### Article 12 – paragraph 3 – subparagraph 2

##### *Text proposed by the Commission*

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.

##### *Amendment*

Member States shall ensure that operators of lower-tier establishments provide, at the request of the competent authority **and local authorities, the** information **it deems necessary** on the risks arising from the establishment necessary for land-use planning purposes.

##### *Justification*

*It is up to the competent authority to decide as to the quantity and quality of information it needs to ascertain precisely what level of safety has been reached in the establishment. In the interests of the public, operators must inform and cooperate with the local authorities.*

## Amendment 40

### Proposal for a directive

#### Article 13 – paragraph 1

##### *Text proposed by the Commission*

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.

##### *Amendment*

1. Member States shall ensure that the information referred to in **Parts 1 and 2 of** Annex V is permanently available to the public, including in electronic format **and that the information referred to in Part 3 of Annex V is made available to the public upon request.** The information shall be reviewed and where necessary updated at least once a year.

##### *Justification*

*Regarding the inspection reports and the inventory of dangerous substances there might be economic and security reasons to only provide the information to the public on request. The Member States could then decide themselves whether they consider it to be appropriate to require the operators to put this information also on the internet. As indicated in the amendments to Annex V, operators should be obliged to explain the dangerous substances in simple terms on the internet and to indicate when an establishment has been inspected and where the inspection reports can be requested.*

## Amendment 41

### Proposal for a directive Article 13 – paragraph 3

*Text proposed by the Commission*

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 Council.

*Amendment*

3. **Access** to the information referred to in **paragraphs 1 and 2** shall be handled in accordance with Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information.

*Justification*

*As the information referred to in 2(a) should be provided without specific request, it is not correct to use "Requests for access" in this paragraph. Furthermore, the whole of paragraph 1 and 2 should be in accordance with the whole of Directive 2003/4/EC.*

## Amendment 42

### Proposal for a directive Article 15 – paragraph 1 – point a

*Text proposed by the Commission*

(a) to inform the competent authorities;

*Amendment*

(a) to inform the competent authorities **and local authorities**;

*Justification*

*In the interests of the public, operators must inform and cooperate with the local authorities.*

## Amendment 43

### Proposal for a directive Article 15 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

*(ba) to restore the environment, in the case of proven environmental damage to its original condition, where possible, and to appropriately compensate the population affected, as provided for in Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage<sup>1</sup>;*

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<sup>1</sup> *OJ L 143, 30.4.2004, p. 56.*

#### **Amendment 44**

##### **Proposal for a directive**

##### **Article 15 – paragraph 2 - point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(ca) to take all necessary measures to inform victims of their rights; and*

##### *Justification*

*Victims require recognition and support. This is the purpose of the new Article 15(a), which should be introduced to legislate on victims' rights before the directive is implemented.*

#### **Amendment 45**

##### **Proposal for a directive**

##### **Article 19 – paragraph 5 – subparagraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

(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 Council.

(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 Council, *or in an equivalent recognised environmental management*

*scheme.*

*Justification*

*It ought to be possible to participate in environmental management schemes other than EMAS, e.g. schemes like ISO, which are very widely used by international companies. This chimes with the provisions laid down in Annex III, point (a) to the proposal for a directive.*

**Amendment 46**

**Proposal for a directive**  
**Article 19 – paragraph 8**

*Text proposed by the Commission*

8. Inspections shall ***whenever possible*** be coordinated with inspections under other Union legislation and combined, ***where appropriate***.

*Amendment*

8. Inspections shall be coordinated with inspections under other Union legislation, ***in particular Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)***<sup>1</sup>, and, ***to the extent possible***, combined.

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<sup>1</sup> OJ L 334, 17.12.2010, p. 17.

**Amendment 47**

**Proposal for a directive**  
**Article 21 – paragraph 2**

*Text proposed by the Commission*

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.

*Amendment*

2. ***Access to*** information under this Directive may be ***restricted*** where the conditions ***laid down*** in Article 4(2) of Directive 2003/4/EC are fulfilled.

**Amendment 48**

**Proposal for a directive**  
**Article 23**

*Text proposed by the Commission*

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.

*Amendment*

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. ***Within six months of the adoption of an adaptation to technical progress made to Regulation (EC) No 1272/2008, the Commission shall assess whether Annex I needs to be adapted, taking into account the major accident hazard potential of a substance and the criteria for the application of Article 4.***

*Justification*

*The alignment of the scope of the Seveso Directive to Regulation (EC) No 1272/2008 (CLP) and its adaptations should become an on-going process, as CLP is by nature a dynamic process.*

**Amendment 49**

**Proposal for a directive  
Article 23**

*Text proposed by the Commission*

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.

*Amendment*

Without prejudice to Article 4, in order to adapt ***Part 3 of Annex I and Annexes II to VI*** to technical ***and scientific*** progress, the Commission shall adopt delegated acts in accordance with Article 24.

*Justification*

*It should be possible to amend part 3 of Annex I (which changes the scope, but only for very specific well defined cases) and the Annexes II to VI by delegated acts. Amendments to Part 1 and 2 of Annex I and to Annex VII can have a major impact on the scope and should therefore be dealt with through the ordinary legislative procedure.*

**Amendment 50**

**Proposal for a directive  
Annex I – Part 1 – Section P – box 1**

*Text proposed by the Commission*

P1a EXPLOSIVES (see note 8) <ul style="list-style-type: none"><li>- Unstable explosives or</li><li>- Explosives, Division 1.1, 1.2, 1.3, 1.5 or 1.6, or</li><li>- <b>Substances</b> 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</li></ul>	10	50
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*Amendment by Parliament*

P1a EXPLOSIVES (see note 8) <ul style="list-style-type: none"><li>- Unstable explosives or</li><li>- Explosives, Division 1.1, 1.2, 1.3, 1.5 or 1.6, or</li><li>- <b>For substances and mixtures that have not been classified as Class 1 under the UN recommendations on the transport of dangerous goods as set out in the UN Manual of Tests and Criteria: substances</b> or mixtures having explosive properties according to method A.14 of Regulation (EC) No 440/2008 (see note 9) and <i>which</i> do not belong to the hazard classes <b>Oxidising agents</b>, Organic peroxides or Self-reactive substances and mixtures</li></ul>	10	50
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*Justification*

*This category includes products classified as explosive under the CLP Regulation, as well as substances or mixtures with explosive properties as established using method A.14 under Regulation EC No 440/2008. To ensure the legislation is clear and coherent, it would be a good idea to stick to the classification criteria for explosives and the other categories set out in the CLP Regulation, rather than taking account of other classification methods.*

**Amendment 51**

**Proposal for a directive**

**Annex I – Part 1 – Section E - boxes 1 and 2**

*Text proposed by the Commission*

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 <b>Chronic 2</b>	<b>200</b>	<b>500</b>

*Amendment by Parliament*

Section ‘E’ – ENVIRONMENTAL HAZARDS		
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E1 Hazardous to the Aquatic Environment in Category Acute 1 or Chronic 1 ( <i>substances with <math>M \geq 10</math></i> )	100	200
E2 Hazardous to the Aquatic Environment in Category Acute 1 and Chronic 1 ( <i>substances with <math>M=1</math> and mixture</i> )	500	1000
E3 Hazardous to the Aquatic Environment in Category Chronic 2	1000	2500

#### Justification

*The classification changes in the CLP Regulation ((EC) No 1272/2008) are insufficiently reflected in the Commission proposal as far as risks to the environment are concerned. This means that more establishments that do not pose any new major-accident hazards will needlessly be brought under the Seveso provisions. Some of the changes to the prescribed thresholds for environmental hazards have not been adapted to take account of the changes made to the classification rules, in particular the second adaptation of the CLP Regulation to technical progress.*

#### Amendment 52

##### Proposal for a directive

##### Annex I – Part 2 – box 37 b (new)

*Text proposed by the Commission*

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*Amendment by Parliament*

<i>Essential oils and similar substances (see note 19a)</i>		1000	5000
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#### Justification

*The aquatic environment hazard thresholds fail to take account of the classification changes in Regulation (EC) No 1272/2008. Thresholds of 1000 / 5000 would be more appropriate for these products of agricultural origin packaged and stored in 180 kg net drums, with which there is no risk of a domino effect where they are stored in a single sealed-off area. A large number of undertakings – many of them SMEs which specialise in producing, storing, distributing or blending essential oils – would otherwise come under the Seveso provisions without posing any new major-accident hazards.*

#### Amendment 53

##### Proposal for a directive

##### Annex I – Notes to Annex 1 – point 3 a (new)

*Text proposed by the Commission*

*Amendment*

***3a. When determining the qualifying quantities, mixtures classified as hazardous to the environment under sections E1 and E2 in Part 2 shall not be taken into account when they are packaged in limited quantities (inner pack up to 5 litres/5kg and combination pack up to 30 kg).***

*Justification*

*As in the case of transportation, packaging is a means of mitigating the risk of accidental release into the environment. This amendment brings this Directive in line with the standards already established under ADR 2011 European Agreement Concerning the International Carriage of Dangerous Goods by Road.*

#### **Amendment 54**

##### **Proposal for a directive**

##### **Annex I – Notes to Annex 1 – point 19 a (new)**

*Text proposed by the Commission*

*Amendment*

***19a. Essential oils and similar substances (1000/5000)***

***This applies to essential oils and similar substances as defined by the ISO 9235 standard, with the exception of those in acute toxicity category 1 – all exposure routes, category 2 – all exposure routes and category 3 – dermal and inhalation routes (see Note 7), and specific target organ toxicity (STOT) – single exposure, category 1.***

*Justification*

*The aquatic environment hazard thresholds fail to take account of the classification changes in Regulation (EC) No 1272/2008. Thresholds of 1000 / 5000 would be more appropriate for these products of agricultural origin packaged and stored in 180 kg net drums, with which there is no risk of a domino effect where they are stored in a single sealed-off area. A large number of undertakings – many of them SMEs which specialise in producing, storing, distributing or blending essential oils – would otherwise come under the Seveso provisions without posing any new major-accident hazards.*

## Amendment 55

### Proposal for a directive Annex II – point 2 – point a

*Text proposed by the Commission*

a) description of the site and its environment including the geographical location, meteorological, geological, hydrographic conditions and, if necessary, its history;

*Amendment*

a) description of the site, ***a suitable assessment of its natural risks*** and its environment including the geographical location, meteorological, geological, hydrographic conditions and, if necessary, its history;

## Amendment 56

### Proposal for a directive Annex II – point 3 – point a

*Text proposed by the Commission*

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;

*Amendment*

a) description of the main activities and products of the parts of the establishment, ***and identification of sub-contractors***, 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;

## Amendment 57

### Proposal for a directive Annex II – point 5 – point d a (new)

*Text proposed by the Commission*

*Amendment*

***(da) description of the assessment of the financial impact of an accident involving dangerous substances and the measures taken to deal with this, in particular by means of a specific insurance policy and/or a sufficient level of equity.***

## Amendment 58

### Proposal for a directive Annex III – point b – point v

*Text proposed by the Commission*

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

*Amendment*

**(v) control of the risks posed by ageing equipment: inventory of the establishment's equipment; description of the initial state of the equipment on 1 June 2015 or on the date on which it is brought into use, if later; presentation of the strategy in place for checking the state of the equipment (stating the arrangements for doing this, how often it is done, the methods used, etc.) and establishing the action to be taken in response to these checks (methodology for evaluating the results, criteria for establishing when corrective action needs to be taken with a view to repairs, replacements, etc.). Evidence relating to these aspects of the strategy shall be provided in line with the ways in which the equipment could deteriorate. Presentation of a methodology for monitoring the results of the checks and the action taken in response to them; methodology relating to any steps taken in the light of those results;**

#### *Justification*

*The proposal to include 'safety culture' in the section on safety management systems seems rather vague. Europe has an ageing industrial landscape with low levels of renovation. In order to ensure a high level of safety, new procedures must be introduced and made part of the day-to-day running of an establishment (e.g. an increased level of monitoring, replacement of worn parts, etc.). Procedures cannot remain as they were when the establishment concerned was new.*

## Amendment 59

### Proposal for a directive Annex IV – Part 1 – point e a (new)

*Text proposed by the Commission*

*Amendment*

***(ea) Arrangements for training staff in the duties which they will be expected to perform and, where necessary, coordinating them with off-site emergency services.***

## **Amendment 60**

### **Proposal for a directive Annex V – Part 1 – point 6**

*Text proposed by the Commission*

*Amendment*

***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.*** ***deleted***

#### *Justification*

*This provision has to be deleted in view of the high risks that publicising the weak points identified at Seveso sites would pose in terms of terrorism and economic intelligence.*

## **Amendment 61**

### **Proposal for a directive Annex V – Part 2 – point 1**

*Text proposed by the Commission*

*Amendment*

***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.*** ***deleted***

#### *Justification*

*As was the case with regard to part 1 of this annex, it is vital that details of the main types of major-accident scenarios, and, even more importantly, the types of events that might trigger such scenarios, are not made public. The only information available for distribution should be the non-technical summary of the hazard assessment study.*

## Amendment 62

### Proposal for a directive

#### Annex VI – Part 2 – paragraph 1 – point b

*Text proposed by the Commission*

(b) *six* persons injured within the establishment and hospitalized for at least 24 hours;

*Amendment*

(b) ***two or more*** persons injured within the establishment and hospitalized for at least 24 hours;

## Amendment 63

### Proposal for a directive

#### Annex VII – paragraph 1 (new)

*Text proposed by the Commission*

*Amendment*

***Any substance or mixture that is toxic or highly toxic to aquatic organisms stored in a unit (e.g. a drum) that is less than or equal to 0,2 % of the tonnage indicated in column 2 of part 1 of Annex I (i.e. 400 kg and 200 kg respectively for substances and mixtures that are toxic or highly toxic to aquatic organisms) shall be ignored for the purposes of calculating the total quantity present if its location within an establishment is such that an accidental spillage cannot cause a major accident elsewhere on the site via a domino effect and where they are stored in a single sealed-off area.***

*Justification*

*Storing a small amount of a substance that is toxic to the environment should not be taken into account, in view of the quantity that can be released. A leak involving a small amount of a substance that is toxic to the environment does not have the same impact on the environment as a leak from a storage tank.*

## PROCEDURE

<b>Title</b>	Control of major-accident hazards involving dangerous substances	
<b>References</b>	COM(2010)0781 – C7-0011/2011 – 2010/0377(COD)	
<b>Committee responsible</b> Date announced in plenary	ENVI 18.1.2011	
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	ITRE 18.1.2011	
<b>Rapporteur(s)</b> Date appointed	Jacky Hénin 14.3.2011	
<b>Discussed in committee</b>	25.5.2011	30.6.2011
<b>Date adopted</b>	26.9.2011	
<b>Result of final vote</b>	+: 33 -: 7 0: 0	
<b>Members present for the final vote</b>	Jean-Pierre Audy, Bendt Bendtsen, Maria Da Graça Carvalho, Giles Chichester, Christian Ehler, Ioan Enciu, Vicky Ford, Gaston Franco, Adam Gierek, Norbert Glante, Fiona Hall, Jacky Hénin, Edit Herczog, Romana Jordan Cizelj, Krišjānis Kariņš, Lena Kolarska-Bobińska, Philippe Lamberts, Bogdan Kazimierz Marcinkiewicz, Marisa Matias, Judith A. Merkies, Miloslav Ransdorf, Herbert Reul, Michèle Rivasi, Jens Rohde, Paul Rübig, Amalia Sartori, Francisco Sosa Wagner, Patrizia Toia, Ioannis A. Tsoukalas, Marita Ulvskog, Adina-Ioana Vălean, Alejo Vidal-Quadras, Henri Weber	
<b>Substitute(s) present for the final vote</b>	Francesco De Angelis, Satu Hassi, Jolanta Emilia Hibner, Gunnar Hökmark, Bernd Lange, Alajos Mészáros, Algirdas Saudargas	

16.8.2011

## **OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION**

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a directive of the European Parliament and of the Council on control of major-accident hazards involving dangerous substances  
(COM(2010)0781 – C7-0011/2011 – 2010/0377(COD))

Rapporteur: Małgorzata Handzlik

### **SHORT JUSTIFICATION**

#### **Objectives of the proposal**

Directive 96/82/EC on the control of major-accident hazards involving dangerous substances (commonly referred to as the SEVESO II Directive) is aimed at preventing major accidents involving large quantities of dangerous substances (or mixtures thereof), as listed in Annex I to the directive, and to limit the human and environmental impact of such accidents.

#### **General comments on the amendments to the SEVESO II Directive**

The amendments to the SEVESO II Directive stem from the need to align it with Regulation No 1272/2008 on the classification, labelling and packaging of substances and mixtures (hereinafter the CLP Regulation). During this adaptation process, the Commission decided to make limited changes to the directive's provisions while retaining the main elements of the SEVESO system. The rapporteur considers that a two-tiered approach (dividing operators into upper-tier and lower-tier risk categories) is fully justified and necessary in order to maintain the stability and predictability of the current system. In view of the fact that the amendments to the SEVESO II Directive stem from the need to align it with the CLP Directive, and not from an increase in the number of major accidents, the rapporteur considers changing the overall approach adopted in the SEVESO II Directive to be unjustified.

#### **Comments on the amendments to Annex I**

Annex I is a key element of the SEVESO II Directive which sets down a list of dangerous substances and their lower- and upper-tier qualifying quantities. Annex I should therefore be

recognised as a key element in setting the scope of the directive as well as the number of operators coming under its provisions. Article 4 of the Commission proposal provides for correction mechanisms to adapt Annex I taking the form of EU-wide derogations enabling substances or mixtures to be excluded from the scope of Annex I and a safeguard provision enabling new substances or mixtures to be included under Annex I. The Commission is proposing that Annex I should be adapted via delegated acts. The rapporteur does not agree with this approach and considers that amendments to Annex I should be adopted under the ordinary legislative procedure. For the same reason, the rapporteur proposes that Annex VII, which defines the criteria for derogations pursuant to Article 4, should also be adopted under the ordinary legislative procedure.

### **The rapporteur's comments on the other remaining amendments**

The rapporteur welcomes the addition of new provisions to the SEVESO II Directive and the Commission's clarification of a large number of provisions, particularly those relating to: information to the public (Article 13), public consultation and participation in decision-making (Article 14), access to justice (Article 22), and information systems and exchanges (Article 20).

With regard to information exchange systems, the rapporteur for the opinion welcomes in particular the opening up of SPIRS to the public, the setting of a maximum time limit of one year for the submission of information regarding major emergencies and the lowering of notification criteria from 5% to 1% of the qualifying quantity laid down in column 3 of Annex I. As a result of the lowering of notification criteria, the number of major accidents reported will increase; however, this will at the same time enable other operators to draw appropriate conclusions for the future and to learn from others' mistakes. Nonetheless, it is important for the information stored on SPIRS and MARS to be comprehensive. Unfortunately, many of the reports currently stored on MARS are incomplete. The rapporteur proposes that the Commission should regularly (every four years) submit a report to Parliament and to the Council on major accidents that have taken place within the European Union and the lessons that should be learned from them with a view to increasing the effectiveness of the SEVESO II Directive.

Keeping the public informed is vital in building trust as well as in raising public awareness of the correct action to take in the event of a major accident. It is important not to overwhelm the public with unnecessary information and to ensure that the information is clearly worded and easy to understand; so that it will not needlessly arouse panic in the absence of a genuine threat, but should ensure that appropriate steps are taken when a major accident does occur. This information should reach the greatest possible number of persons likely to be affected by the consequences of a major accident. Operators should endeavour to keep the public informed on a regular and proactive basis, and to ensure that the information is systematically updated. The information should also be accessible in electronic form. In addition to this basic information, the public should also be able to gain access to more in-depth information. For reasons such as the need to ensure security, the confidentiality of commercial and the protection of industrial information and intellectual property rights, some information should only be made available on demand.

## AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a directive

##### Recital 6

*Text proposed by the Commission*

(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.

*Amendment*

(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 ***and to strengthen cooperation between the Member States and, for that reason, between the regional and local authorities, so as to prevent cross-border accidents and ensure coordinated response to major accidents.***

### Amendment 2

#### Proposal for a directive

##### Recital 11

*Text proposed by the Commission*

(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

*Amendment*

(11) Operators should have a general obligation to take all necessary measures to prevent major accidents, to mitigate their consequences ***and to take recovery measures.*** Where dangerous substances are present in establishments above certain quantities the operator should provide the

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.

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.

### *Justification*

*Responsibility for taking recovery measures following an accident should rest with the operators.*

## **Amendment 3**

### **Proposal for a directive Recital 16**

#### *Text proposed by the Commission*

(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 matters, 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

#### *Amendment*

(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 matters, 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.

***Information disseminated to the public should be worded clearly and intelligibly.***

In addition to providing information in an active way, without the public having to submit a request, and without precluding

date on the internet. At the same time there should be appropriate confidentiality safeguards, to address security-related concerns, among others.

other forms of dissemination, it should also be made available permanently and kept up to date on the internet. ***In order to achieve greater transparency, more detailed and comprehensive information, including in the form of documents, should be made available to any natural or legal person upon request.*** At the same time there should be appropriate confidentiality safeguards, to address security-related concerns, among others.

#### *Justification*

*While respecting confidentiality safeguards, access to additional information or documents upon request from any natural or legal person would enhance transparency and public confidence in the safety of industrial installations.*

#### **Amendment 4**

##### **Proposal for a directive Recital 20**

###### *Text proposed by the Commission*

(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 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.

###### *Amendment*

(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 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. ***Member States and the Commission should strive to ensure the completeness of information held on information systems established in order to facilitate the exchange of information on major accidents.***

## *Justification*

*Information exchange systems are extremely important for the sharing of experience between Member States and, among other things, enabling operators to learn necessary lessons. However, the information must be complete and must enable the causes of the accident to be identified.*

### **Amendment 5**

#### **Proposal for a directive Recital 23**

##### *Text proposed by the Commission*

(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.

##### *Amendment*

(23) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty ***on the Functioning of the European Union*** in respect of the ***amendments to Annexes II to VI*** of this Directive. ***It is of particular importance that the Commission carry out appropriate and transparent consultations during its preparatory work, including at expert level, well in advance. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.***

## *Justification*

*Annexes I and VII to the directive contain fundamental elements; therefore, any amendments to those elements should be subject to the ordinary legislative procedure. In order to ensure the transparency of consultations and of the documents forwarded, provisions should be included from the Common Understanding on Practical Arrangements for the Use of Delegated Acts.*

### **Amendment 6**

#### **Proposal for a directive Article 4 – paragraph 1**

##### *Text proposed by the Commission*

1. Where it is demonstrated, on the basis of

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##### *Amendment*

1. Where it is demonstrated, on the basis of

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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.***

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 ***submit a legislative proposal to list those substances*** in Part 3 of Annex I.

#### *Justification*

*Annex I to the directive contains fundamental elements that define its scope. Therefore, amendments to that annex should be subject to the ordinary legislative procedure and not delegated acts.*

### **Amendment 7**

#### **Proposal for a directive Article 4 – paragraph 4**

##### *Text proposed by the Commission*

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.

##### *Amendment*

4. By 30 June 2013, the Commission shall ***submit a legislative proposal*** to establish criteria to be used for the purposes of paragraphs 1 and 3 of this Article respectively, and to amend Annex VII accordingly.

#### *Justification*

*Annex VII contains fundamental elements. Therefore, amendments to that annex should be subject to the ordinary legislative procedure and not delegated acts.*

### **Amendment 8**

#### **Proposal for a directive Article 4 – paragraph 5 – subparagraph 3**

##### *Text proposed by the Commission*

Where appropriate, the Commission may ***list the substances*** referred to in the first subparagraph of this paragraph in Part 1 or

##### *Amendment*

Where appropriate, the Commission may ***submit a legislative proposal to list the substances*** referred to in the first

Part 2 of Annex I *by delegated acts in accordance with Article 24.*

subparagraph of this paragraph in Part 1 or Part 2 of Annex I.

*Justification*

*Annex I to the directive contains fundamental elements that define its scope. Therefore, amendments to that annex should be subject to the ordinary legislative procedure and not delegated acts.*

**Amendment 9**

**Proposal for a directive**

**Article 6 – paragraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

(e) the quantity and physical form of the dangerous substance or substances involved;

(e) the quantity, ***nature*** and physical form of the dangerous substance or substances involved;

*Justification*

*In line with Article 6(4)(a).*

**Amendment 10**

**Proposal for a directive**

**Article 7 – paragraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

(a) for new establishments, a reasonable period of time prior to the start of construction or operation,

*(Does not affect English version.)*

*Justification*

**Amendment 11**

**Proposal for a directive**

**Article 10 – paragraph 1 – introductory part**

*Text proposed by the Commission*

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:

*Amendment*

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

*Justification*

*In line with Article 6(4)(a) and Article 6(1)(e).*

**Amendment 12**

**Proposal for a directive  
Article 13 – paragraph 1**

*Text proposed by the Commission*

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.

*Amendment*

1. Member States shall ensure that the information referred to in Annex V is permanently available to the public, including in an electronic format. ***That information shall be worded clearly and in a way that is intelligible to the public.*** The information shall be reviewed and where necessary updated at least once a year. ***Upon request from any natural or legal person, Member States shall ensure that more detailed and additional information going beyond the information referred to in Annex V, and without prejudice to Article 21, is made available to that person.***

*Justification*

*It is important that information disseminated to the public is worded intelligibly and does not give rise to any doubts as to the correct action to take in the event of an accident.*

## Amendment 13

### Proposal for a directive

#### Article 13 – paragraph 2 – subparagraph 1 – point a

##### *Text proposed by the Commission*

(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;

##### *Amendment*

(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. ***That information shall be worded clearly and in a way that is intelligible to the public;***

##### *Justification*

*It is important that information passed on persons likely to be affected is worded intelligibly and does not give rise to any doubts as to the correct action to take in the event of an accident.*

## Amendment 14

### Proposal for a directive

#### Article 13 – paragraph 2 – subparagraph 1 – point b

##### *Text proposed by the Commission*

(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;

##### *Amendment*

(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 ***on human health and the environment*** and the requisite behaviour in the event of an accident, shall be made available;

## Amendment 15

### Proposal for a directive

#### Article 13 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

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.

*Amendment*

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 ***pre-school facilities***, schools and hospitals, ***other public amenities***, 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. ***That information shall be updated in particular in the event of modifications as referred to in Article 10.***

*Justification*

*In order to ensure the safety of persons affected, and to ensure that such persons take appropriate action, it is important that information on an emergency reaches the greatest possible number of persons potentially likely to be affected. This information should be updated in the event of modifications to an installation, establishment or storage facility.*

**Amendment 16**

**Proposal for a directive  
Article 13 – paragraph 5**

*Text proposed by the Commission*

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.

*Amendment*

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 inform the other Member State ***of that decision and of its reasons for taking that decision.***

## **Amendment 17**

### **Proposal for a directive Article 20 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 20a**

##### **Reporting**

*Every four years the Commission, on the basis of information submitted by Member States in accordance with Article 16 and information held in databases, as referred to in Article 20(3) and (5), shall submit to the European Parliament and to the Council a report on the major accidents that have occurred within the Union and their potential impact upon the efficient functioning of this Directive. However, following any accident considered as extremely serious in terms of number of victims or major damage to the environment, a report shall be drawn up with the aim of preventing possible new damage.*

#### *Justification*

*The European Parliament and the Council should regularly receive information on major accidents that have occurred within the European Union. Currently, there is no obligation to report to the European Parliament and the Council on a regular basis.*

## **Amendment 18**

### **Proposal for a directive Article 22 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

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

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 **or**

protection and meeting any requirements under national law shall be deemed sufficient for the purpose of paragraph 2(a).

**public health** protection and meeting any requirements under national law shall be deemed sufficient for the purpose of paragraph 2(a).

## Amendment 19

### Proposal for a directive Article 23 – paragraph 1

#### *Text proposed by the Commission*

**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.

#### *Amendment*

In order to adapt Annexes **II to VI** to technical progress, the Commission shall adopt delegated acts in accordance with Article 24.

#### *Justification*

*Annexes I and VII to the directive contain fundamental elements; therefore, any amendments to these elements should be subject to the ordinary legislative procedure.*

## Amendment 20

### Proposal for a directive Article 24 – paragraph 1

#### *Text proposed by the Commission*

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.

#### *Amendment*

1. The *power* to adopt the delegated acts referred to in **Article 23** shall be conferred on the Commission for an indeterminate period of time.

#### *Justification*

*This amendment is necessary in view of the changes made to Article 4.*

## Amendment 21

### Proposal for a directive Article 25 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The delegation of powers referred to in Article 24 may be revoked at any time by the European Parliament or by the Council.

*(Does not affect English version.)*

*Justification*

-

## **Amendment 22**

### **Proposal for a directive Article 25 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

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.***

3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect ***on the day following that of its publication in the Official Journal of the European Union*** or at a later date specified therein. It shall not affect the validity of the delegated acts already in force.

*Justification*

*To ensure legal certainty, it is necessary to specify the exact timing. The wording is in accordance with the clause proposed in the Understanding on Practical Arrangements for the use of Delegated Acts.*

## **Amendment 23**

### **Proposal for a directive Article 26 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

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

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***.

period shall be extended by ***two months***.

*Justification*

*In line with the Common Understanding on Practical Arrangements for the use of Delegated Acts.*

## PROCEDURE

<b>Title</b>	Control of major-accident hazards involving dangerous substances	
<b>References</b>	COM(2010)0781 – C7-0011/2011 – 2010/0377(COD)	
<b>Committee responsible</b> Date announced in plenary	ENVI 18.1.2011	
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	IMCO 18.1.2011	
<b>Rapporteur(s)</b> Date appointed	Małgorzata Handzlik 10.2.2011	
<b>Discussed in committee</b>	13.4.2011	24.5.2011
<b>Date adopted</b>	12.7.2011	
<b>Result of final vote</b>	+: 32 -: 0 0: 0	
<b>Members present for the final vote</b>	Adam Bielan, Lara Comi, António Fernando Correia De Campos, Jürgen Creutzmann, Christian Engström, Evelyne Gebhardt, Louis Grech, Małgorzata Handzlik, Iliana Ivanova, Philippe Juvin, Eija-Riitta Korhola, Edvard Kožušník, Kurt Lechner, Hans-Peter Mayer, Phil Prendergast, Zuzana Roithová, Heide Rühle, Christel Schaldemose, Andreas Schwab, Catherine Stihler, Róza Gräfin von Thun und Hohenstein, Kyriacos Triantaphyllides, Emilie Turunen, Bernadette Vergnaud, Barbara Weiler	
<b>Substitute(s) present for the final vote</b>	María Irigoyen Pérez, Morten Løkkegaard, Emma McClarkin, Konstantinos Poupakis, Sylvana Rapti, Olle Schmidt, Wim van de Camp	

## PROCEDURE

<b>Title</b>	Control of major-accident hazards involving dangerous substances	
<b>References</b>	COM(2010)0781 – C7-0011/2011 – 2010/0377(COD)	
<b>Date submitted to Parliament</b>	21.12.2010	
<b>Committee responsible</b> Date announced in plenary	ENVI 18.1.2011	
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	ITRE 18.1.2011	IMCO 18.1.2011
<b>Rapporteur(s)</b> Date appointed	János Áder 8.2.2011	
<b>Discussed in committee</b>	14.6.2011	
<b>Date adopted</b>	4.10.2011	
<b>Result of final vote</b>	+: 52 -: 3 0: 0	
<b>Members present for the final vote</b>	János Áder, Elena Oana Antonescu, Kriton Arsenis, Sophie Auconie, Paolo Bartolozzi, Sergio Berlato, Nessa Childers, Chris Davies, Bairbre de Brún, Esther de Lange, Anne Delvaux, Bas Eickhout, Edite Estrela, Jill Evans, Elisabetta Gardini, Gerben-Jan Gerbrandy, Françoise Grossetête, Satu Hassi, Jolanta Emilia Hibner, Dan Jørgensen, Karin Kadenbach, Christa Kläß, Holger Krahmer, Jo Leinen, Corinne Lepage, Peter Liese, Kartika Tamara Liotard, Radvilė Morkūnaitė-Mikulėnienė, Miroslav Ouzký, Vladko Todorov Panayotov, Gilles Pargneaux, Antonyia Parvanova, Mario Pirillo, Pavel Poc, Vittorio Prodi, Frédérique Ries, Anna Rosbach, Oreste Rossi, Carl Schlyter, Horst Schnellhardt, Richard Seeber, Theodoros Skylakakis, Claudiu Ciprian Tănăsescu, Salvatore Tatarella, Anja Weisgerber, Åsa Westlund, Sabine Wils	
<b>Substitute(s) present for the final vote</b>	Matthias Groote, Judith A. Merkies, Alojz Peterle, Marianne Thyssen, Marita Ulvskog, Kathleen Van Brempt	
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Arlene McCarthy, Konrad Szymański	
<b>Date tabled</b>	12.10.2011	