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*Committee on Industry, Research and Energy*

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**2010/0377(COD)**

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

PA\_Legam

## 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 The former category ‘very toxic’ has been replaced by the new category ‘acute toxic, category 1’ and the old category ‘toxic’ has been split into ‘acute toxic, category 2’ (applicable to all exposure routes) and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*

*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

(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.

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

*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 the operator's overall approach and measures, including appropriate safety management systems, for controlling major-accident hazards.

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*

(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 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

*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 ~~(+ex am 39)~~ ***local authorities and*** communicate the information necessary for them to assess



the impact of that accident.

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*

*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 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***

*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

*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. The Member State concerned shall give reasons for the exclusion.

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 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 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 notification containing the following details:

*Amendment*

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 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*

*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,

*Justification*

*Clarity of the legislative text.*

**Amendment 27**

**Proposal for a directive**

**Article 6 – paragraph 4 – introductory part**

*Text proposed by the Commission*

*Amendment*

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

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*

*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 without delay.

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*

*Amendment*

1. Member States shall require the operator to draw up a document setting out the

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.

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 information from the operator pursuant to point (b).

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).

*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*

*Amendment*

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-

Member States shall ensure that operators of lower-tier establishments provide, at the request of the competent authority (~~and~~ ***and local authorities, the*** information ***it deems necessary*** on the risks arising from

use planning purposes.

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

*Amendment*

3. **Access** to the information referred to in **paragraphs 1 and 2** shall be handled in accordance with Directive 2003/4/EC of

*Articles 3 and 5 of* Directive 2003/4/EC of the European Parliament and of the Council.

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*

*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 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*

*Amendment*

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

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***

*appropriate.*

*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) - Unstable explosives or - Explosives, Division 1.1, 1.2, 1.3, 1.5 or 1.6, or - <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	10	50
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#### *Amendment by Parliament*

P1a EXPLOSIVES (see note 8) - Unstable explosives or - Explosives, Division 1.1, 1.2, 1.3, 1.5 or 1.6, or - <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	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		
E1 Hazardous to the Aquatic Environment in Category Acute 1 or Chronic 1 ( <b>substances with <math>M \geq 10</math></b> )	100	200
E2 Hazardous to the Aquatic Environment in Category <b>Acute 1 and Chronic 1 (substances with <math>M=1</math> and mixture)</b>	<b>500</b>	<b>1000</b>
<b>E3 Hazardous to the Aquatic Environment in Category Chronic 2</b>	<b>1000</b>	<b>2500</b>

*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*

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

*Amendment*

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

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*

*Amendment*

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

(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	