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REPORT

on the proposal for a European Parliament and Council directive amending Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances
(COM(2001) 624 – C5-0668/2001 – 2001/0257(COD))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: Giorgio Lisi

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 10 December 2001 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 175(1) of the EC Treaty, the proposal for a European Parliament and Council directive amending Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances (COM(2001) 624 - 2001/0257 (COD)).

At the sitting of 13 December 2001 the President of Parliament announced that she had referred this proposal to the Committee on the Environment, Public Health and Consumer Policy as the committee responsible and the Committee on Industry, External Trade, Research and Energy and the Committee on Regional Policy, Transport and Tourism for their opinions (C5-0668/2001).

The Committee on the Environment, Public Health and Consumer Policy appointed Giorgio Lisi rapporteur at its meeting of 13 March 2002.

The committee considered the Commission proposal and draft report at its meetings of 22 May 2002 and 18 June 2002.

At the last meeting it adopted the draft legislative resolution by 49 votes to none, with three abstentions.

The following were present for the vote: Caroline F. Jackson, chairman; Mauro Nobilia, Alexander de Roo and Anneli Hulthén, vice-chairmen; Giorgio Lisi, rapporteur; Per-Arne Arvidsson, María del Pilar Ayuso González, Hans Blokland, David Robert Bowe, John Bowis, Hiltrud Breyer, Dorette Corbey, Chris Davies, Avril Doyle, Anne Ferreira, Marialiese Flemming, Karl-Heinz Florenz, Cristina García-Orcoyen Tormo, Laura González Álvarez, Robert Goodwill, Françoise Grossetête, Mary Honeyball (for Bernd Lange), Christa Kläß, Eija-Riitta Anneli Korhola, Peter Liese, Torben Lund, Jules Maaten, Minerva Melpomeni Malliori, Patricia McKenna, Jorge Moreira da Silva, Eluned Morgan (for Rosemarie Müller), Emilia Franziska Müller, Antonio Mussa (for Jim Fitzsimons), Riitta Myller, William Francis Newton Dunn (for Astrid Thors), Giuseppe Nisticò, Ria G.H.C. Oomen-Ruijten, Marit Paulsen, Frédérique Ries, Dagmar Roth-Behrendt, Guido Sacconi, Karin Scheele, Horst Schnellhardt, Inger Schörling, Jonas Sjöstedt, María Sornosa Martínez, Catherine Stihler, Charles Tannock (for Raffaele Costa), Nicole Thomas-Mauro, Antonios Trakatellis, Kathleen Van Brempt, Phillip Whitehead and Stavros Xarchakos (for Cristina Gutiérrez Cortines).

The opinion of the Committee on Industry, External Trade, Research and Energy is attached; the Committee on Regional Policy, Transport and Tourism decided on 19 December 2001 not to deliver an opinion.

The report was tabled on 19 June 2002.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a European Parliament and Council directive amending Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances (COM(2001) 624 – C5-0668/2001 – 2001/0257(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2001) 624¹),
 - having regard to Article 251(2) of the EC Treaty and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0668/2001),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Policy and the opinion of the Committee on Industry, External Trade, Research and Energy (A5-0243/2002),
1. Approves the Commission proposal as amended;
 2. Asks to be consulted again should the Commission intend to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
RECITAL 4 A (NEW)

(4a) The explosion at a fertiliser plant in Toulouse in September 2001 has emphasised the accident potential arising from the storage of ammonium nitrate and ammonium nitrate-based fertilisers, in particular of material rejected during the manufacturing process or returned to the manufacturer (so-called "off-specs"). Therefore, the existing categories of ammonium nitrate and ammonium nitrate-based fertilisers in Directive 96/82/EC should be reviewed with a view

¹ OJ C 75E, 26.3.2002, p. 357.

to particularly include "off-specs" material.

Justification

Self-explanatory.

Amendment 2
RECITAL 4 B (NEW)

(4b) The provisions of this Directive should not be applied to sites where ammonium nitrate and ammonium nitrate-based fertilisers which on delivery conformed to the specification in this Directive but subsequently have become degraded or contaminated, are temporarily present prior to removal for reprocessing or destruction.

Justification

Self-explanatory.

Amendment 3
RECITAL 4 C (NEW)

(4c) The accident at the Grande Paroisse plant in Toulouse on 21 September 2001 revealed numerous breaches of the provisions laid down by Directive 96/82/EC, in particular the fact that the building where the explosion took place had not been the subject of a safety report and that the hazard study of the ammonium nitrates produced and stored on this industrial site had not been reviewed since 1995.

Justification

It is vital to draw attention to the conditions relating to the accident in Toulouse and to draw the lessons from them to prevent such disasters occurring in the future and it should be pointed out here that the operator failed to comply with all the provisions laid down by the Seveso II directive of December 1996.

Amendment 4 RECITAL 4 D (NEW)

(4d) In the light of the accident in Toulouse, it is vital to make the provisions applying to operators more stringent, with regard to their general obligations, the relevance of safety reports which are central to the safety of industrial plants, internal and external emergency plans and the information provided to the public, in order to reduce the risks of accidents at source and consequently limit as far as possible strategic errors in risk perception and trivialisation of risks.

Justification

The Seveso II directive of December 1996 is basically satisfactory; above all it must be fully applied by all those involved (primarily competent authorities and operators of industrial sites). Nonetheless, as pointed out by the European Commission, the accident in Toulouse requires an immediate modification of this directive and, indeed, of the proposal for the Seveso III directive. More stringent requirements for operators are crucial to developing a safety culture in the European Union.

Amendment 5 RECITAL 4 E (NEW)

(4e) The hazardousness of a substance depends on a number of parameters:

intrinsic properties, temperature, pressure, particle size or possible mixture with other substances and, consequently, a product considered stable in certain conditions or applications may be explosive in others and create a risk of a major accident.

Justification

Following the disaster in Toulouse, it seems to be more or less established that the properties of ammonium nitrate change radically in the presence of impurities. The latter may trigger a number of processes ranging from slow decomposition to explosion. The explosive properties of such a product when mixed with other compounds also apply to other chemical products.

Amendment 6
ARTICLE 1, POINT 1

Article 4, point (e) (Directive 96/82/EC)

“(e) the exploitation (exploration, extraction and processing) of minerals in mines and quarries, with the exception of ***chemical and thermal*** processing operations and related storage involving dangerous substances as defined in Annex I of this Directive; ***hazards related to offshore exploration and exploitation of minerals;***”

“(e) the exploitation (exploration, extraction and processing) of minerals in mines and quarries, with the exception of processing operations and related storage involving dangerous substances as defined in Annex I of this Directive;

Justification

It is not clear why other methods (mechanical or physical) should be excluded given that the hazards are inherent in the substances, the quantity thereof and their processing, not in the type of processing. To ensure greater clarity, offshore operations are covered by a separate paragraph (f a) (new) (cf. Amendment 7).

Amendment 7
ARTICLE 1, POINT 1

Article 4, point (f) (Directive 96/82/EC)

"(f) waste land-fill sites with the exception of tailings disposal facilities containing dangerous substances as defined in Annex I of this Directive and used in connection with the **chemical and thermal** processing of minerals."

"(f) waste land-fill sites with the exception of **operational** tailings disposal facilities containing dangerous substances as defined in Annex I of this Directive and used in connection with the processing of minerals."

Justification

It is not clear why other methods (mechanical or physical) should be excluded given that the hazards are inherent in the substances, the quantity thereof and their processing, not in the type of processing.

Amendment 8
ARTICLE 1, POINT 1 A (NEW)

Article 4 point (f) a (new) (Directive 96/82/EC)

In Article 4 the following point is added after point (f):

"(f a) offshore exploration and exploitation of minerals."

Justification

This specific clause covering the offshore sector provides greater clarity.

Amendment 9
ARTICLE 1, POINT 1 B (NEW)

Article 6, paragraph 1, indent 2 a (new) (Directive 96/82/EC)

In Article 6, paragraph 1, the following

*indent is added after the second indent:
"- for establishments not previously falling within the scope of application of this Directive, within three months of the date on which the Directive applies to the establishment concerned as provided in the first sentence of Article 2, paragraph 1."*

Justification

Facilities which are brought within the scope of application of this Directive as a result of its modification must be given time to make the necessary adjustments.

Amendment 10
ARTICLE 1, POINT 1 C (NEW)

Article 6, paragraph 2, point (g) a (new) (Directive 96/82/EC)

In Article 6, paragraph 2, the following point is added after point (g):

(g a) training measures for the staff of the establishment or operating firm and sub-contracting firms on prevention and emergency measures in the event of a major accident.

Justification

In the tragic accident in Toulouse on 21 September 2001 it was found that a large number of staff of sub-contracting firms were employed on the site of the AZF plant. Consequently, in order to ensure that all staff are able to take the immediate emergency measures required to protect both themselves and others, they should be given training.

Amendment 11
ARTICLE 1, POINT 1 D (NEW)
Article 6, paragraph 4 (Directive 96/82/EC)

In Article 6, paragraph 4, the following indent is inserted after the first indent:

- substantial modification of an installation, an establishment or a storage area, or

Justification

Such changes should be reported to the competent authority under Article 10 of the directive.

Amendment 12

ARTICLE 1, POINT 1 E (NEW)

Article 7, paragraph 1 (Directive 96/82/CE)

Article 7, paragraph 1 is replaced by the following:

1. Member States shall require the operator to draw up a document setting out his major-accident prevention policy and evidencing his compliance with his obligations and to ensure that it is properly implemented. The major-accident prevention policy established by the operator shall be designed to guarantee a high level of protection for man and the environment by appropriate means, structures and management systems.

Justification

It is vital to draw attention to the conditions relating to the accident in Toulouse and to draw the lessons from them to prevent such disasters occurring in the future and it should be pointed out here that the operator failed to comply with all the provisions laid down by the Seveso II directive of December 1996.

Amendment 13

ARTICLE 1, POINT 1 F (NEW)

Article 7, paragraph 1 a (new) (Directive 96/82/EC)

In Article 7 the following paragraph is inserted between the first and second paragraphs:

"1a. For establishments not previously

falling within the scope of application of this Directive, the document shall be drawn up without delay and in any case no later than within three months of the date on which the Directive applies to the establishment concerned as provided in the first sentence of Article 2, paragraph 1."

Justification

Facilities which are brought within the scope of application of this Directive as a result of its modification must be given time to make the necessary adjustments.

Amendment 14

ARTICLE 1, POINT 1 G (NEW)

Article 8, paragraph 2, point (a) a (new) (Directive 96/82/EC)

In Article 8, paragraph 2, a new point is added after point (a):

(a a) in accordance with this Directive and in particular Article 12 thereof, operators are required to take the necessary measures to prevent domino effects occurring in the event of major accidents;

Justification

Better information for the public can help prevent accidents by ensuring improved monitoring.

Amendment 15

ARTICLE 1, POINT 1 H (NEW)

Article 8, paragraph 2, point (a) b (new) (Directive 96/82/EC)

In Article 8, paragraph 2, a new point is added after point (a):

(a b) the public shall be informed of the possible dangers and risks of domino effects occurring, through the local press, and by post and on the official website of the regional authority concerned;

Justification

Better information for the public can help prevent accidents by ensuring improved monitoring.

Or. nl

Amendment 16

ARTICLE 1, POINT 1 I (NEW)

Article 8, paragraph 2, point (b) (Directive 96/82/EC)

In Article 8, paragraph 2 point (b) is amended as follows:

(b) provision is made for cooperation in supplying information to the authority responsible for the preparation of external emergency plans.

Justification

Better information for the public can help prevent accidents by ensuring improved monitoring.

Amendment 17

ARTICLE 1, POINT 1 J (NEW)

Article 9, paragraph 2 (Directive 96/82/EC)

In Article 9, paragraph 2 is replaced with the following text:

The safety report shall contain at least the data and information listed in Annex II. It shall also contain an updated inventory of the dangerous substances present in the establishment. It shall also list the persons involved in drawing up the report and describe the methods used. Several safety reports, sections of reports, or other equivalent reports drawn up in accordance with other legislation may be merged into a single safety report for the purposes of this article, when such an arrangement makes

it possible to avoid the unnecessary repetition of information and duplication of work carried out by the operator or by the competent authority, provided that all the requirements of this article are satisfied.

Justification

All too often a small number of people are involved in drawing up the safety report. The study is actually carried out by the operator, possibly with the help of external consultants, without any involvement of the bodies concerned, which are only informed of the findings. This amendment therefore seeks to promote a multidisciplinary approach to the safety report, involving specialists from different fields, as a way of ensuring the quality of safety reports. It is also vital to incorporate the practical experience gained by employees in the process of drawing up the report.

Amendment 18

ARTICLE 1, POINT 1 K (NEW)

Article 9, paragraph 3, indent 3 a (new) (Directive 96/82/EC)

In Article 9, paragraph 3, the following indent is inserted between the third and fourth indents:

"- for establishments not previously falling within the scope of application of this Directive, without delay and in any case no later than one year from the date on which the Directive applies to the establishment concerned as provided in the first sentence of Article 2, paragraph 1."

Justification

Facilities which are brought within the scope of application of this Directive as a result of its modification must be given time to make the necessary adjustments.

Amendment 19

ARTICLE 1, POINT 1 L (NEW)

Article 9, paragraph 5, indent 2 (Directive 96/82/EC)

In Article 9, paragraph 5, the second indent is replaced with the following text:

- at any other time, and compulsorily in the event of changes in work organisation with an impact on the safety of an installation, at the initiative of the operator or the request of the competent authority, where justified by new facts or to take account of new technical knowledge about safety matters arising, for example, from analysis of accidents or, as far as possible, 'near misses', and of developments in knowledge concerning the assessment of hazards .

Justification

In many cases organisational changes occur more frequently than the five-yearly intervals laid down for review of the safety report; this has serious implications for its validity. According to INERIS (French National Institute for Industrial Environment and Risks), 53% of major industrial accidents are due to organisational failings. The obligation to update the safety report in the event of organisational changes with an impact on safety should therefore be written into the directive.

Amendment 20

ARTICLE 1, POINT 1 M (NEW)

Article 9, paragraph 6, point (c) a (new) (Directive 96/82/EC)

In Article 9, paragraph 6, the following point is added after point (c):

(c a) Member States shall ensure that the different methods used for drawing up safety reports are ultimately drawn together in a single European method.

Justification

The methods in force for drawing up safety reports differ widely from one Member State to another and do not facilitate the exchange of information and feedback within the Union. This is the conclusion to be drawn from the hazard studies carried out by experts from 9 Member States meeting within the working party established by the European Commission. In the two common scenarios studied, storage of ammonia and a liquefied petroleum gas storage sphere, the safe distances varied from 100 to 1000 metres and from 100 to 1500 metres respectively depending on the country. A single European method for safety reports ultimately seems to be the only satisfactory solution.

Amendment 21
ARTICLE 1, POINT 1 N (NEW)
Article 10, indent 2 (Directive 96/82/EC)

In Article 10, the second indent is amended as follows:

- reviews, and where necessary revises, the safety report.

Justification

Clarification of the text.

Amendment 22
ARTICLE 1, POINT 1 O (NEW)
Article 10, paragraph 1 a (new) (Directive 96/82/EC)

In Article 10, a new paragraph is added after the first paragraph:

The operator shall provide the competent authority referred to in Article 16 with full particulars of the review and revision, if any, of its major accident prevention policy, the management systems and procedures referred to in Articles 7 and 9 and the safety report, before making any change.

Justification

Clarification of the text.

Amendment 23
ARTICLE 1, POINT 1 P (NEW)
Article 11, paragraph 1, point (a), indent 3 a (new) (Directive 96/82/EC)

In Article 11, paragraph 1, point (a) the following indent is inserted after the third indent:

"- for establishments not previously falling within the scope of application of this Directive, without delay and in any case no later than one year from the date on which the Directive applies to the establishment concerned as provided in the first sentence of Article 2, paragraph 1."

Justification

Facilities which are brought within the scope of application of this Directive as a result of its modification must be given time to make the necessary adjustments.

Amendment 24
ARTICLE 1, POINT 1 Q (NEW)

Article 11, paragraph 1, point (b), indent 3 a (new) (Directive 96/82/EC)

In Article 11, paragraph 1, point (b) the following indent is inserted after the third indent:

"- for establishments not previously falling within the scope of application of this Directive, without delay and in any case no later than one year from the date on which the Directive applies to the establishment concerned as provided in the first sentence of Article 2, paragraph 1."

Justification

Facilities which are brought within the scope of application of this Directive as a result of its modification must be given time to make the necessary adjustments.

Amendment 25
ARTICLE 1, POINT 1 R (NEW)
Article 11, paragraph 3 (Directive 96/82/EC)

In Article 11, paragraph 3 is replaced with the following text:

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 personnel employed inside the establishment and that the public is consulted when external emergency plans are drawn up and reviewed in accordance with Article 11, paragraph 4, of this Directive.

Justification

The staff of the establishment should be involved in drawing up emergency plans.

The local population should also be involved to a greater extent in the drawing up of external emergency plans and their review, which should take place at least every three years.

Amendment 26

ARTICLE 1, POINT 1 S (NEW)

Article 11, paragraph 3 a (new) (Directive 96/82/EC)

In Article 11, a new paragraph is added after paragraph 3:

3a. In accordance with the relevant national legislation, the operator of the establishment or enterprise shall consult the internal body responsible for safety and risk prevention matters. The latter shall also involve the staff of external enterprises employed on the site of the establishment in its work.

Justification

The staff of the establishment should be involved in drawing up emergency plans.

The staff of sub-contracting enterprises must also participate in drawing up the opinion of the consultative body so that appropriate prevention measures can be devised.

Amendment 27
ARTICLE 1, POINT 1 T (NEW)
Article 11, paragraph 4 a (new) (Directive 96/82/EC)

In Article 11, the following paragraph is added:

4a. Member States shall ensure that external emergency plans take into account the Council decision 2001/792/EC⁽¹⁾ establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions.

¹OJ L 297 of 15.11.2001, p. 7.

Justification

A link to the Council decision from last year shall be established in order to raise effectiveness of EU legislation.

Amendment 28
ARTICLE 1, POINT 1 U (NEW)
Article 11, paragraph 5 a (new) (Directive 96/82/EC)

In Article 11, the following paragraph is added:

5a. If an event listed in paragraph 5 occurs, Member States shall inform the monitoring and information centre established according to Council decision 2001/792/EC⁽¹⁾ and cooperate with this centre.

¹OJ L 297 of 15.11.2001, p. 7.

Justification

A link to the Council decision from last year shall be established in order to raise effectiveness of EU legislation.

Amendment 29

ARTICLE 1, POINT 1 V (NEW)

Article 12, paragraph 1, point (c) a (new) (Directive 96/82/EC)

In Article 12, paragraph 1, a new point is added after point (c):

(c a) technical measures put in place to reduce hazard areas, such as effective passive safety measures (tank dikes, concrete skirts, burial) to prevent the risk of explosion, moving high-risk installations within the perimeter of the establishment, the reduction of volumes stored on site and changes in production processes to eliminate the use of dangerous intermediate products.

Justification

A number of measures can significantly reduce the hazard areas of most industrial installations and thus meet the land-use planning objectives established by Article 12 Directive 96/82/EC.

Amendment 30

ARTICLE 1, POINT 1 W (NEW)

Article 12, paragraph 1a (new) (Directive 96/82/EC)

In Article 12, a new paragraph is inserted after paragraph 1:

1a. Within three years of [date of adoption of this Directive], the Commission, in close cooperation with the Member States, shall draw up guidelines defining a harmonised technical data base of risk data and risk scenarios to be used for assessing the compatibility between the establishments covered and the sensitive areas listed in Article 12, paragraph 1. This method of

assessment shall in any case take account of the evaluations made by the competent authorities, the information obtained from operators and all other relevant information such as the socio-economic benefits of development and the mitigating effects of emergency plans.

Justification

The accidents at Enschede and Tolosa have demonstrated the need to tackle the issue of already existing establishments.

Amendment 31

ARTICLE 1, POINT 1 X (NEW)

Article 12, Paragraph 1 b (new) (Directive 96/82/EC)

In Article 12, the following paragraph is added after paragraph 1:

"1b. The Commission shall in the same context develop a scheme of incentives and / or funding for the relocation of establishments covered by this directive which do not provide for the appropriate safety distance. This could be done in the framework of regional policy."

Justification

The Enschede and the Toulouse accident have shown that there is the need to tackle the problem of existing sites. As safety and security of citizens and workers are problems of the common market, it is a task for the Commission to initiate a process and to develop common guidelines.

The EU's structural funds could be a mean to finance the relocation of establishments.

Amendment 32

ARTICLE 1, POINT 1 Y (NEW)

Article 13, paragraph 1, subparagraph 1 (Directive 96/82/EC)

In Article 13, paragraph 1, the first subparagraph is replaced with the following text:

Member States shall ensure that information on safety measures and on the requisite behaviour in the event of an accident is supplied regularly and in the most appropriate form, without their having to request it, to all persons and all establishments serving the public (schools, hospitals, etc.) liable to be affected by a major accident originating in an establishment covered by Article 9.

Justification

In order to take account of the needs of people who move into an area located within the perimeter of an establishment covered by this Directive, information on safety measures and the behaviour to adopt in the event of an accident should be provided to the local population at regular intervals. Giving such information out each year, and through different organisations, will also remind people of what they should do in the event of an accident.

Amendment 33

ARTICLE 1, POINT 1 Z (NEW)

Article 13, paragraph 4 (Directive 96/82/EC)

In Article 13, paragraph 4 is replaced with the following text:

Member States shall ensure that the safety report is made available to the public, in particular people living in municipalities in which establishments covered by this Directive are located. Information concerning the availability of the safety report and emergency plans shall appear in the local press and on the website of the competent national authority. The operator may ask the competent authority not to disclose to the public certain parts of the report, for reasons of industrial, commercial or personal confidentiality, public security or national defence. In such cases, on the approval of the competent authority, the operator shall supply to the authority, and make available to the public, an amended report excluding those matters.

The inventory of the categories of dangerous substances present in the establishment with the respective amounts shall not be exempt from disclosure.

The safety report shall also be forwarded to the local advisory bodies, in accordance with the provisions of Article 13, paragraph 4, of this Directive, as shall the emergency plans.

Justification

Better information for the public can help to prevent accidents.

These documents should also be sent to the advisory bodies so that they can participate as effectively as possible in drawing up the emergency plans.

Amendment 34

ARTICLE 1, POINT 1 AA (NEW)

Article 13, paragraph 4 a (new) (Directive 96/82/EC)

In Article 13, a new paragraph is added after paragraph 4:

Member States shall ensure that this information is clearly posted in establishments subject to the jurisdiction of the public authorities and in any establishment open to large numbers of the public (schools, hospitals, etc.) in areas in which an establishment covered by the scope of application of this Directive is located.

The Council offices of municipalities in which an establishment covered by this Directive is located shall make available to anyone who so requests, the safety report, in accordance with the provisions of Article 13, paragraph 4, of this Directive, and the external emergency plans.

Justification

In order to take account of the needs of people who move into an area located within the perimeter of an establishment covered by this Directive, information on safety measures and the behaviour to adopt in the event of an accident should be provided to the local population at regular intervals. Giving such information out each year and through different organisations will also remind people of what they should do in the event of an accident.

Amendment 35

ARTICLE 1, POINT 1 AB (NEW)

Article 13 a (new) (Directive 96/82/EC)

After Article 13, the following new article is inserted:

Training of the staff of establishments or enterprises and of external enterprises

Member States shall ensure that the establishment or operator and external enterprises provide their staff with regular training so that they are able to take the initial emergency measures required in the event of a major accident, and master any new manufacturing process involving dangerous substances.

The establishment or operator and sub-contracting enterprises working on the site of the establishment or enterprise shall provide the competent authorities at regular intervals, and least once every two years, with a report on the training measures for their respective staff on dealing with major accidents.

The report must provide details of:

- the training body or officers,***
- its registration number with the public authorities,***
- the length of training,***
- the type of training provided,***
- the staff concerned.***

Justification

In the tragic accident in Toulouse on 21 September 2001 it was found that a large number of staff of sub-contracting firms were working on the site of the AZF plant. Consequently, training should be provided for all staff to enable them to take the initial emergency measures required to protect both themselves and others.

Amendment 36

ARTICLE 1, POINT 1 AE (NEW)

Article 17, paragraph 1, subparagraph 2 a (new) (Directive 96/82/EC)

In Article 17, paragraph 1, a new subparagraph is inserted at the end of the paragraph:

Member States shall suspend the activities of an establishment or enterprise if the operator has failed to

- inform the competent authority in accordance with Article 6, paragraph 4, indents 1 and 2, and Article 10 of this Directive,

- forward to the competent authorities the report on staff training in his establishment and external enterprises.

Member States shall notify the enterprise without delay of its non-compliance and the suspension of activities. They shall also inform it of the deadlines for complying with the provisions of this Directive. If the enterprise has not replied by the deadlines set, Member States may prohibit the enterprise from operating, after giving the enterprise further notice of its non-compliance.

Justification

Failure to comply with these provisions is sufficient grounds for suspending the activities of the establishment.

Amendment 37
ARTICLE 1, POINT AF (new)

Article 19, paragraph 2a (new) (Directive 96/82/EC)

In Article 19, the following paragraph is added after paragraph 1

1a. For establishments covered by the Directive, Member States shall supply to the Commission at least the following information:

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

(b) the activity or activities of the establishment; the information provided by the Member States;

The Commission sets up and keeps up to date a database containing the information provided by the Member States.

Justification

The Commission has to be better informed in order to be able to react properly in case of a major accident.

Amendment 38
ARTICLE 1, POINT 1 AG (NEW)
Article 20, paragraph 1, (Directive 96/82/EC)

Article 20, paragraph 1 is replaced by the following:

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

Information obtained by the competent authorities or the Commission may, where national provisions so require, be kept

confidential if it calls into question:

- the confidentiality of the deliberations of the competent authorities and the Commission,*
- the confidentiality of international relations and national defence,*
- public security,*
- the confidentiality of preliminary investigation proceedings or of current legal proceedings,*
- commercial and industrial secrets, including intellectual property - but exclusively relating to processes. Access to information concerning the storage of substances covered by Annex I may not be withheld,*
- personal data and/or files,*
- data supplied by a third party if that party asks for them to be kept confidential.*

Justification

Public safety can be improved by informing the public properly. If there are fears that providing information will cause a public outcry, then there is a fundamental problem that needs to be addressed and cannot simply be glossed over.

Intellectual property must be respected but this does not mean that information on the storage of substances on a site within the meaning of Annex I can be withheld. It cannot be argued that providing this type of information would be incompatible with the protection of intellectual property.

Amendment 39
ANNEX, POINT 1 A (NEW)
Annex I, Part I, table, lines 1-2 (Directive 96/82/EC)

Amendment by Parliament

In Part 1 the figures for ammonium nitrate are replaced with:

<i>Ammonium nitrate</i>	<i>5000</i>	<i>10000</i>
<i>Ammonium nitrate</i>	<i>1250</i>	<i>5000</i>
<i>Ammonium nitrate</i>	<i>350</i>	<i>2500</i>
<i>Ammonium nitrate</i>	<i>10</i>	<i>50</i>

Justification

The last of these categories (10tonnes/50tonnes) was involved in the accident in Toulouse, which could have been prevented if these qualifying quantities had been complied with. The Commission has not yet submitted a proposal but in the meantime a workshop held at the JRC in Ispra in February 2002 reached the conclusion that new qualifying quantities for ammonium nitrate should be set in the Seveso II directive.

Amendment 40
ANNEX, POINT 1 B (NEW)

Annex I, Part I, Table, line 2 a (new) (Directive 96/82/EC)

Amendment by Parliament

In Part 1, the following lines are added:

<i>Potassium nitrate</i>	<i>1250</i>	<i>5000</i>
<i>Potassium nitrate</i>	<i>5000</i>	<i>10000</i>

Justification

As potassium nitrate has similar properties to ammonium nitrate, it should be included in the list of named dangerous substances.

In Part 1, Notes 1 and 2 are replaced by the following:

1. Ammonium nitrate (5000 / 10000):

This applies to ammonium nitrate-based compound/composite fertilisers (compound / composite fertilisers contain ammonium nitrate with phosphate and/or potash) in which the nitrogen content as a result of ammonium nitrate is 24.5% by weight or less, and which are capable of self-sustaining decomposition according to the UN Trough Test (see United Nations Recommendations on the Transport of Dangerous Goods: Manual of Tests and Criteria, Part III, sub-section 38.2).*

**2. Ammonium nitrate (1250 / 5000):
fertiliser grade**

This applies to straight ammonium nitrate-based fertilisers and to ammonium nitrate-based compound/composite fertilisers in which the nitrogen content as a result of ammonium nitrate is
- more than 24.5 % by weight, except for mixtures of ammonium nitrate with dolomite, limestone and/ or calcium carbonate with a purity of at least 90 %,
*- more than 15.75 %** by weight for mixtures of ammonium nitrate and ammonium sulphate,*
*- more than 28 %*** by weight for mixtures of ammonium nitrate with dolomite, limestone and/ or calcium carbonate with a purity of at least 90 %, and which fulfil the requirements of Annex II of Directive 80/876/EEC (as amended and updated).*

3. Ammonium nitrate (350/2500)

This applies to ammonium nitrate and ammonium-nitrate based preparations in which the nitrogen content resulting from

the ammonium nitrate is:

- more than 24.5% by weight

*- more than 15.75% by weight** for mixtures of ammonium nitrate and ammonium sulphate,*

- more than 28% by weight for mixtures of ammonium nitrate with dolomite, limestone and/or calcium carbonate with a degree of purity of at least 90%, and which contain a percentage equal to or less than 0.2% of combustible substances and aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 90% by weight.

4. Ammonium nitrate (10 / 50))

This applies to waste materials from production processes and recovered materials that require reprocessing, recycling or treatment to ensure their safe use, derived from:

- ammonium nitrate and ammonium-nitrate based preparations,

- simple ammonium-nitrate based fertilisers,

- ammonium-nitrate based compound composite fertilisers in which the nitrogen content resulting from the ammonium nitrate is more than 28% by weight.

** A nitrogen content of 24.5% by weight corresponds to a 70% ammonium nitrate solution.*

*** A nitrogen content of 15.75% by weight corresponds to a 45% ammonium nitrate solution.*

**** A nitrogen content of 28% by weight corresponds to an 80% ammonium nitrate solution.**

Justification

The last of these categories (10tonnes/50tonnes) was involved in the accident in Toulouse, which could have been prevented if these qualifying quantities have been complied with. The

Commission has not yet submitted a proposal but in the meantime a workshop held at the JRC in Ispra in February 2002 reached the conclusion that new qualifying quantities for ammonium nitrate should be set in the Seveso II directive.

The accident in Toulouse in September 2001 demonstrated the need for clear definitions of ammonium nitrate and the setting of new qualifying quantities for this substance, even in small quantities.

Amendment 42
ANNEX, POINT 5 C (NEW)

Annex I, Part I, Note 2 a (new) (Directive 96/82/EC)

In the Notes to Part 1, the following text is added after Note 2:

1. Potassium nitrate (1250/5000)

Composite potassium-nitrate based fertilisers composed of potassium nitrate in crystalline form

2. Potassium nitrate (5000/10000)

Composite potassium-nitrate based fertilisers composed of potassium nitrate in prilled/granular form

Justification

Potassium nitrate is used mainly in the agricultural sector and to a lesser extent in the industrial sector with applications ranging from glass and ceramics to textiles and steel.

The conditions for storing, handling and processing this compound for agricultural use are similar to those for other fertilisers. The quantities of potassium nitrate involved at these stages are significant.

Under the transport regulations potassium nitrate is classified as a division 5.1 oxidising agent in packaging group 3, corresponding to the lowest level of risk. On the basis of tests subsequently carried out by an accredited European institute (TNO Prins Maurits Laboratory, Rijswijk Netherlands), potassium nitrate in prilled form (that most commonly used for agricultural purposes) cannot ever be classified as an oxidising agent.

Amendment 43
ANNEX, POINT 6
Annex I, Part 2, Note 1, Paragraph 1 a (new) (Directive 96/82/EC)

In Note 1, the following indents are added:
- Directive 2000/60/EEC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy;
- Council Directive 91/689/EEC of 12 December 1991 on hazardous waste.

Justification

References to these two directives are essential. The Water framework directive is relevant for the Seveso II Directive especially concerning emissions of certain substances into the aquatic environment. Adding a reference to the Hazardous Waste Directive, allows tailings and waste from mineral processing already classified as hazardous under the EU "waste list" to unequivocally fall under the scope of the Seveso II Directive. This, in turn, allows Aznacóllar-type tailings pond accidents to be covered by Seveso II Directive.

Amendment 44
ANNEX, POINT 11 A (NEW)
Annex II, Part IV, paragraph A a (new) (Directive 96/82/EC)

In Annex II, Part IV, a new point is inserted after point A:
A a. Hazard studies :
- of each substance present or potentially present on the site of the establishment,
- of the interaction, including the domino effect, of substances present on the site.

The hazard studies must take account of the accidents that have already occurred and accidents of which there is a high risk of occurrence due to the substance or substances present together in the establishment, the consequences that these accidents have caused or may cause, and the lethal effect thresholds linked to the hazards and risks identified.

Justification

The major accidents that have occurred in recent years have also affected the more or less immediate environment and caused the deaths of scores of people. Consequently, the safety reports that the establishment must forward to its competent authority, must also contain the additional elements listed above in order to improve safety and accident prevention in establishments covered by the Directive.

Amendment 45

ANNEX, POINT 11 B (NEW)

Annex III, point (c), subparagraph (i) (Directive 96/82/EC)

In Annex III, point (c), subparagraph (i) is replaced with the following:

organisation and personnel - the roles and responsibilities of personnel involved in the management of major hazards at all levels in the organisation. The identification of training needs of such personnel and the provision of the training so identified. The involvement of employees and of subcontractors working in the establishment.

Justification

The staff of sub-contracting firms should also be included in staff training; at the time of the accident at the AZF plant in Toulouse a large number of employees of sub-contractors were working on the site.

Amendment 46

ANNEX, POINT 11 C (NEW)

Annex V, point 10 a (new) (Directive 96/82/EC)

In Annex V, the following point is added after point 10

10a. A map, on an easily-readable scale, showing risk areas.

For these areas, the map must show the population, the type of settlement and the natural resources and environments concerned.

Justification

A map of risk areas must be available to the public for information purposes.

EXPLANATORY STATEMENT

1. Introduction

Council Directive 96/82/EC of 9 December 1996¹ on the control of major-accident hazards involving dangerous substances (so-called Seveso II Directive) aims to prevent major accidents which involve dangerous substances and limit their consequences for man and the environment, with a view to ensuring high levels of protection throughout the Community in a consistent and effective manner.

The principal novelty of the new Directive that had to be applied in the Member States from 3 February 1999 is the introduction of an obligation for industrial operators to put into effect Safety Management Systems including a detailed risk assessment using possible accident scenarios. Such a risk assessment plays a key role in preventing major accidents. Moreover, the obligation to provide information to the public on industrial risks and on the behaviour to adopt in the case of an accident is of paramount importance for the limitation of the consequences of major accidents.

Recent accidents have shown that the current "Seveso II" directive does not provide adequate protection. The preliminary work carried out by the Commission, at the request of the Council, has identified a number of scientific shortcomings, which have prompted these proposals to amend the existing directive.

The work done by TWG 7 and TWG 8 (the two ad hoc technical working groups) provides a very useful technical and scientific basis for assessing the Commission's proposals.

Your rapporteur generally welcomes the Commission proposal but draws attention to the importance of finding a fair balance between safety regulations and the need for methods of assessing the impact of the legislation into force. The amendments proposed by your rapporteur are inspired by three fundamental considerations:

- widening the scope of the directive to cover other substances, taking account of the causes of major accidents that have occurred over the past few years;
- giving the public and undertakings assurances as to the deadlines for adoption of the directive and ensuring that existing plants comply with the new regulations;
- making a clear distinction in the Commission proposals between elements that are based on reliable scientific evidence and proposals based on the criterion of political expediency.

2. Modifications proposed and other considerations

The accidents that occurred at Baia Mare in Romania and Aznalcóllar in Spain have led the Commission to review its position regarding the exclusion of mining operations from the Seveso II directive. Parliament has already taken a clear stance on the issue and is in favour of the Commission's initiative of bringing these activities within the scope of the directive.

¹ OJ L 10, 14.1.1997, p. 13.

Your rapporteur welcomes the broad lines of the Commission's proposal. However, on the one hand, he proposes to widen the definition of mining operations with regard to both the preparation and disposal of tailings containing dangerous substances and, on the other, he proposes that it should be made clear that this applies to plants that are in operation. The Commission itself rightly argues that the scope of the "Seveso II" Directive is to control the hazards linked to the presence of dangerous substances, without regard to the particular industrial activity is involved, consequently the inclusion of mining operations should not be confined to the chemical and thermal processing of the relevant substances. The danger is inherent in the substance itself, irrespective of the type of processing or preparation, and the wording proposed by the Commission would in fact exclude plants carrying out mechanical or physical processing, such as Aznalcóllar, from the scope of the directive.

The Commission proposes that the Member States should have a period of one year in which to comply with the changes to the directive, however it stipulates no such transitional period for new plants which would be brought within the scope of the Directive after entry into force of the modifications proposed. To avoid any uncertainty, and taking account of the fact that, depending on the substances present, these plants are already covered by a series of European regulations, the rapporteur proposes transitional periods for notification, prevention policy, the safety report and the emergency plan. This approach seems to be shared by the Council.

The accidents at Enschede and Tolosa both occurred in the vicinity of residential areas. Article 12 of the "Seveso II" Directive lays down the basis for land-use planning, but this will take some time and require clear and balanced criteria. In its explanatory memorandum the Commission undertakes to step up cooperation with the Member States and to bring forward new proposals in the future but the public is calling for concrete action and the rapporteur therefore proposes inserting in the directive a call for a plan to define a methodology for land-use planning.

The question of hydrazine has raised some degree of confusion. Even though there are no studies on its direct carcinogenic potential and the comparison with 1,2-Dimethylhydrazine is questionable, the tests carried out and detailed in the TWG 8 report nonetheless provide sufficient evidence for the substance to be included in the list of carcinogens, notwithstanding the fact that it has a wide variety of uses and will increase significantly the number of plants covered by the Directive. With this in mind, in order to restrict the burdens on undertakings and the public administration it would be very useful to have the transitional periods proposed by the rapporteur and the 5% concentration threshold proposed by the Commission.

The quantitative thresholds proposed by the Commission for carcinogenic substances are based on considerations that are political rather than scientific in nature. The observations made by TWG 8 should have been confined to a scientific assessment: the political approach based on the so-called precautionary principle, advocated and explicitly supported by the Commission, can therefore be attributed more to widespread public concern regarding carcinogenic substances than to proven scientific evidence. This point will need to be carefully debated by the Environment Committee, however, as the short time available to the rapporteur for presentation of the draft report did not permit such discussion at a preliminary meeting, the rapporteur has left the Commission proposal unchanged for the time being.

Despite the accident at Tolosa, the Commission fails to tackle with the question of ammonium nitrate, probably because of lack of time. At both technical level (an MAHB seminar held in February) and political level (the Council is currently studying this possibility), it has become evident that it is necessary to define ammonium nitrate more clearly and to fix new thresholds. The rapporteur proposes the subdivision currently under discussion Council.

The analogies between ammonium nitrate and potassium nitrate have prompted the rapporteur to include the latter in the list of named substances but with a distinction between potassium nitrate in crystalline form and in prilled form (granular), which is more commonly used in agriculture and cannot even be regarded as an oxidising agent according to the certified tests stipulated in the United Nations 'Recommendations on the Transport of Dangerous Goods: Manual of Tests and Criteria'.

The proposal to reduce the thresholds for substances dangerous for the environment (R50, R50/53 and R51/53) is based on sound scientific data and takes full account of recent accidents which have caused serious environmental damage with quantities lower than the thresholds concerned; this proposal is therefore strongly welcomed by the rapporteur.

The Commission's proposal on explosives, which incorporates the UN/ADR classification system, is also much welcomed and fully supported. This system provides greater clarity and the thresholds take account of the varying levels of hazard.

The Commission's proposal to improve the summation rule for substances of various kinds is welcomed by the rapporteur. The toxicity of substances does not in fact become diluted in preparations. On the contrary, the risk of accidents with harmful consequences for man or the environment increases when the substances are diluted. Consequently, it is not only the quantity of a toxic substances in the preparations that should be taken into account but the whole preparation.

3. Conclusion

The Commission's proposal has to be seen in the highly sensitive context of reconciling the need to safeguard the environment and public safety on the basis of reliable scientific evidence with the imperative of reassuring the public after tragic accidents involving 'Seveso' plants, particularly those in Enschede and Tolosa, and the need to take account of the implications of any changes in the directive for the competitiveness of European industry.

Your rapporteur welcomes the Commission's efforts to arrive at a proposal which is generally balanced, based mainly on reliable scientific data and involving all interested parties.

However, a number of the modifications proposed by the Commission are based more on an extreme interpretation of the precautionary principle rather than the existence of reliable scientific data. As these proposals would unnecessarily penalise industry and the authorities responsible for enforcement without resulting in any real additional benefits for the population and the environment, your rapporteur may well table further amendments after the discussion in the Environment Committee and in the light of the answers provided in committee by the Commission's technical experts and officials.

28 May 2002

OPINION OF THE COMMITTEE ON INDUSTRY, EXTERNAL TRADE, RESEARCH AND ENERGY

for the Committee on the Environment, Public Health and Consumer Policy

on the proposal for a Directive of the European Parliament and of the Council amending Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances

(COM(2001) 624 – C5-0668/01 – 2001/0257(COD))

Draftsman: Dorette Corbey

PROCEDURE

The Committee on Industry, External Trade, Research and Energy appointed Dorette Corbey draftsman at its meeting of 19 February 2002.

It considered the draft opinion at its meetings of 15 April 2002, 13 and 28 May 2002.

At the last meeting it adopted the following amendments unanimously.

The following were present for the vote: Carlos Westendorp y Cabeza chairman; Peter Michael Mombaur vice-chairman; Yves Piétrasanta vice-chairman; Jaime Valdivielso de Cué vice-chairman; Dorette Corbey draftsperson; Nuala Ahern, Konstantinos Alyssandrakis, Sir Robert Atkins, Luis Berenguer Fuster, Guido Bodrato, David Robert Bowe (for Gary Titley), Gérard Caudron, Giles Bryan Chichester, Nicholas Clegg, Concepció Ferrer, Norbert Glante, Michel Hansenne, Hans Karlsson, Bashir Khanbhai, Werner Langen, Peter Liese (for Marjo Matikainen-Kallström), Caroline Lucas, Minerva Melpomeni Malliori (for Massimo Carraro), Hans-Peter Martin (for Rolf Linkohr), Eryl Margaret McNally, William Francis Newton Dunn (for Colette Flesch), Angelika Niebler, Paolo Pastorelli, Elly Plooij-van Gorsel, John Purvis, Godelieve Quisthoudt-Rowohl, Alexander Radwan (for Dominique Vlasto), Bernhard Rapkay (for Erika Mann), Imelda Mary Read, Mechtild Rothe, Christian Foldberg Rovsing, Paul Rübiger, Konrad K. Schwaiger, W.G. van Velzen, Alejo Vidal-Quadras Roca and Myrsini Zorba.

SHORT JUSTIFICATION

Seveso, Bhopal, Baia Mare, Enschede and Toulouse are all places that conjure up the image of appalling, unexpected disasters. Serious industrial accidents are nothing new. In 1807 a ship laden with gunpowder exploded in Leiden in the Netherlands. In 1654 an armoury exploded in Delft. Both Leiden and Delft also saw entire districts disappear then at a single blow. Lessons were learnt from each disaster. Dangerous substances and military storage facilities have increasingly been banned from built-up areas. That is, until new residential areas again abutted on industrial sites and new measures became necessary.

Seveso stands for the explosion of a chemical factory in 1976. Immediately after the explosion there were no fatal casualties but there were hundreds with serious injuries. The population suffered for years from a substantial increase in the mortality rate from cancer owing to the discharge of dioxin and other dangerous substances.

Seveso was the occasion for taking action at European level. A directive was passed (revised version in 1996) aimed at 'the prevention of major accidents involving dangerous substances and (...) the limitation of their consequences for man and the environment'. The Seveso directive requires the Member States to supervise undertakings processing and/or storing dangerous substances. The authorities must assess risks, safety reports and safety management systems must be provided and a prevention policy is required. Members of the public (above all those living in the neighbourhood) must be informed of the presence and risks of dangerous substances. Lastly, the directive lays down two requirements relating to physical planning. Firstly, what is known as the domino effect must be avoided: an explosion must not lead to other explosions in neighbouring undertakings. Secondly, Member States must ensure that an adequate distance exists between the place where dangerous substances are stored and residential or other areas frequented by the public.

In response among other things to the disasters in Baia Mare and Enschede, the Commission has taken steps to improve coordination in the event of disasters, e.g. the Council Decision of 23 October 2001 establishing a Community mechanism to facilitate reinforced cooperation in civil protection interventions.

The recent accidents have shown that the present Seveso II Directive does not provide adequate protection. In response to the disaster in Baia Mare and the firework explosion in Enschede, the Commission is proposing to bring mining within the scope of the Directive and to introduce lower threshold values for explosive substances. The question is whether this is enough. Your draftsman wants to see the proposal tightened up on a number of points.

Firstly, the threshold values both for ammonium nitrate and pyrotechnic substances must be lowered. Threshold values must be introduced for ammonia. Extending the field of application will bring more undertakings within the scope of 'Seveso' thereby also clarifying the required safety arrangements. This is in the interests both of the undertakings concerned and their work force and of those living in the vicinity. Secondly, your draftsman is proposing a number of improvements concerning comprehensive information requirements. Thirdly, there must be proper coordination between Seveso and the machinery of civil protection. A final and particularly difficult point concerns physical planning. The definition of appropriate distance from residential areas is interpreted differently in the different Member States. In the Netherlands 25 metres was considered appropriate, while in France and the UK it is 1000

metres. The EU has only very limited powers in the area of physical planning. Your draftsman proposes therefore that guidelines be developed within three years for a methodology for establishing appropriate safety distances. Your draftsman realises that the management of appropriate safety distances will in practice often be very tricky. Yet the necessary steps need to be taken now – in the interests of protecting the general public.

AMENDMENTS

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

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
ARTICLE 1a (new)

Article 8, paragraph 2, point aa) (new) and b) (Directive 96/82/EC)

1a. Article 8, paragraph 2, one point should be added and one point amended:

(aa) the public is informed about the possible hazard risks and the risks of domino effects via local newspapers as well as by mail and on the official internet website of the respective regional entity.

(b) provision is made for cooperation in supplying information to the competent authority for the preparation of external emergency plans.

Justification

Better information of the public can help to prevent accidents as supervision is better.

¹ OJ C - not yet published.

Amendment 2
ARTICLE 1b (new)

Article 11 (Emergency plans), paragraph 4 a (new) (Directive 96/82/EC)

1b. In Article 11, paragraph 4a shall be added:

4a. Member States shall ensure that external emergency plans take into account the Council decision 2001/792/EC⁽¹⁾ establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions.

¹Official Journal L297 from 15.11.2001, page 7-11

Justification

A link to the Council decision from last year shall be established in order to raise effectiveness of EU legislation.

Amendment 3
ARTICLE 1 c (new)

Article 11 (Emergency plans), paragraph 5 a (new)(Directive 96/82/EC)

1c. In Article 11, paragraph 5a shall be added:

5a. If an event listed in paragraph 5 occurs, Member States shall inform the monitoring and information centre established according to Council decision 2001/792/EC⁽¹⁾ and cooperate with this centre.

¹Official Journal L297 from 15.11.2001, page 7-11

Justification

A link to the Council decision from last year shall be established in order to raise effectiveness of EU legislation.

Amendment 4

ARTICLE 1 d (new)

Article 12, Paragraph 1 a and 1 b (new) (Directive 96/82/EC)

1d. In Article 12, paragraph 1a and 1b shall be added:

1a. Within 3 years from [date of adoption of the directive to amend directive 96/82/EC], the Commission, in close cooperation with the Member States, shall develop guidelines setting out a methodology for establishing appropriate minimum safety distances between establishments covered by the Directive and

- residential areas;***
- buildings and areas of public use;***
- other industrial establishments;***
- natural resources and recreational areas;***
- other areas of particular sensitivity or interest.***

1b. The Commission shall in the same context develop a scheme of incentives and / or funding for the relocation of establishments covered by this directive which do not provide for the appropriate safety distance. This could be done in the framework of regional policy.

Justification

The Enschede and the Toulouse accident have shown that there is the need to tackle the problem of existing sites. As safety and security of citizens and workers are problems of the common market, it is a task for the Commission to initiate a process and to develop common guidelines.

The EU's structural funds could be a mean to finance the relocation of establishments.

Amendment 5
ARTICLE 1e (new)

Article 13, Paragraph 4 (Directive 96/82/EC)

1e. Article 13, paragraph 4 shall be replaced by the following:

4. Member States shall ensure that the safety report is made available to the public. Information on the availability of the report shall be published in the national official journal, local newspapers and on the internet site of the responsible national body. The operator may ask the competent authority not to disclose to the public certain parts of the report, for reasons of industrial, commercial or personal confidentiality, public security or national defence. In such cases, on the approval of the competent authority, the operator shall supply to the authority, and make available to the public, an amended report excluding those matters. The inventory of the categories of dangerous substances present in the establishment with the respective amounts shall not be exempt from disclosure.

Justification

Better information of the public can help to prevent accidents as supervision is better.

Amendment 6
ARTICLE 1 f (new)

Article 19 (Directive 96/82/EC)

1f. Article 19 shall be replaced by the

following:

19. Information system and exchanges

1. Member States and the Commission shall exchange information on the experience acquired with regard to the prevention of major accidents and the limitation of their consequences. This information shall concern, in particular, the functioning of the measures provided for in this Directive.

1a. For establishments covered by the Directive, Member States shall supply to the Commission at least the following information:

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

(b) the activity or activities of the establishment; the information provided by the Member States;

The Commission sets up and keeps up to date a database containing the information provided by the Member States.

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

(a) the rapid dissemination of the information supplied by Member States pursuant to Article 15 (1) among all competent authorities;

(b) distribution to competent authorities of an analysis of the causes of major accidents and the lessons learned from them;

(c) supply of information to competent authorities on preventive measures;

(d) provision of information on organisations able to provide advice or relevant information on the occurrence, prevention and mitigation of major accidents.

The register and information system shall contain, at least:

(a) the information supplied by Member

*States in compliance with Article 15 (1);
(b) an analysis of the causes of the accidents;
(c) the lessons learned from the accidents;
(d) the preventive measures necessary to prevent a recurrence.*

3. Without prejudice to Article 20, access to the register and information system shall be open to government departments of the Member States, industry or trade associations, trade unions, non-governmental organisations in the field of the protection of the environment and other international or research organisations working in the field.

4. Member States shall provide the Commission with a three-yearly report in accordance with the procedure laid down in Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment ⁽¹⁾ for establishments covered by Articles 6 and 9. The Commission shall publish a summary of this information every three years.

Justification

The Commission has to be better informed in order to be able to react properly in case of a major accident.

⁽¹⁾ OJ No L 377, 31. 12. 1991, p. 48.