

# EUROPEAN PARLIAMENT

1999



2004

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*Session document*

FINAL  
**A5-0198/2003**

23 May 2003

**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the Council common position for adopting a European Parliament and Council directive amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances  
(14054/1//2002 – C5-0085/2003 – 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

At the sitting of 3 July 2002 Parliament adopted its position at first reading on the proposal for a European Parliament and Council directive amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances (COM(2001) 624 – 2001/0257(COD)).

At the sitting of 13 March 2003 the President of Parliament announced that the common position had been received and referred to the Committee on the Environment, Public Health and Consumer Policy (14054/1/2002 – C5-0085/2003).

The committee had appointed Giorgio Lisi rapporteur at its meeting of 13 March 2003.

It considered the common position and draft recommendation for second reading at its meetings of 22 April 2003 and 22 May 2003.

At the last meeting it adopted the draft legislative resolution by 52 votes to 0, with 1 abstention.

The following were present for the vote: Caroline F. Jackson, chairman; Guido Sacconi, vice-chairman; Giorgio Lisi, rapporteur; Sir Robert Atkins (for John Bowis), María del Pilar Ayuso González, Hans Blokland, David Robert Bowe, Philip Bushill-Matthews (for Martin Callanan), Dorette Corbey, Raffaele Costa, Chris Davies, Avril Doyle, Anne Ferreira, Christos Folias (for Antonios Trakatellis), Pernille Frahm, Cristina García-Orcoyen Tormo, Anne-Karin Glase (for Marialiese Flemming), Alfred Gomolka (for Karl-Heinz Florenz), Laura González Álvarez, Françoise Grossetête, Roger Helmer (for Robert Goodwill), Marie-Thérèse Hermange (for Cristina Gutiérrez Cortines), Dieter-Lebrecht Koch (for Christa Kläß), Bernd Lange, Paul A.A.J.G. Lannoye (for Marie Anne Isler Béguin), Peter Liese, Torben Lund, Minerva Melpomeni Malliori, Patricia McKenna, Erik Meijer (for Laura González Álvarez), Eluned Morgan (for Elena Valenciano Martínez-Orozco), Rosemarie Müller, Riitta Myller, Ria G.H.C. Oomen-Ruijten, Paolo Pastorelli (for Jorge Moreira da Silva), Béatrice Patrie, Marit Paulsen, Godelieve Quisthoudt-Rowohl (for Horst Schnellhardt), Frédérique Ries, Dagmar Roth-Behrendt, Yvonne Sandberg-Fries, Karin Scheele, Ursula Schleicher (for Peder Wachtmeister), Inger Schörling, Renate Sommer (for Giuseppe Nisticò), María Sornosa Martínez, Bart Staes (for Inger Schörling), Dirk Sterckx (for Jules Maaten), Catherine Stihler, Nicole Thomas-Mauro, Kathleen Van Brempt, Phillip Whitehead and Rainer Wieland (for Emilia Franziska Müller).

The recommendation for second reading was tabled on 23 May 2003.

## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the Council common position for adopting a European Parliament and Council directive on amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances (14054/1/2002 – C5-0085/2003 – 2001/0257(COD))**

**(Codecision procedure: second reading)**

*The European Parliament,*

- having regard to the Council common position (14054/1/2002 – C5-0085/2003),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2001) 624<sup>2</sup>),
  - having regard to the Commission's amended proposal (COM(2002)540<sup>3</sup>),
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 80 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Consumer Policy (A5-0198/2003),
1. Amends the common position as follows;
  2. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> PA\_TAPROV(2002)0355.

<sup>2</sup> OJ C 75 (E), 26.3.2002, p. 357.

<sup>3</sup> OJ C 20 (E), 28.1.2003, p. 255.

Amendment 1  
ARTICLE 1, PARAGRAPH 1  
Article 4, point (e) (Directive 96/82/EC)

(e) the exploitation (exploration, extraction and processing) of minerals in mines, quarries, or by means of boreholes, with the exception of **chemical and thermal** processing operations and related storage involving dangerous substances as defined in Annex I of this Directive;

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

*Justification*

*In the light of the accidents at Aznacollar and Baia Mare, and the continuing absence of an ad hoc legislative framework for mining activities, which the Commission has yet to draw up, we consider it essential to propose once again that all types of preparation entailing the use of dangerous substances listed in Annex I be included in the directive.*

*Retabling of Amendment 6 adopted at first reading.*

Amendment 2  
ARTICLE 1, POINT 1  
Article 4, point (g) (Directive 96/82/EC)

(g) waste land-fill sites with the exception of **active** tailings disposal facilities, including tailing ponds or dams, containing dangerous substances as defined in Annex I and used in connection with the **chemical and thermal** processing of minerals.

(g) waste land-fill sites with the exception of **operational** tailings disposal facilities, including tailing ponds or dams, containing dangerous substances as defined in Annex I and used in connection with the processing of minerals.”.

*Justification*

*Reinstatement of Amendment 7 adopted at first reading.*

*The exclusion of other processing methods (mechanical and physical) from the Directive's provisions on waste land-fill sites is unjustified, since the risk is defined by the substances themselves, in their quantity and use, not by their type of processing.*

*In order to prevent recurrence of accidents such as the Donana spill in Spain, it is essential that all types of preparation entailing the use of dangerous substances listed in Annex I be included in the directive.*

### Amendment 3

#### ARTICLE 1, POINT 2 A (NEW)

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

***2a. 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.*

*This provision does not entail any additional administrative burden in that it merely involves notifying the competent authorities of an additional factor, i.e. staff training and the ability of staff to prevent any major accident and take emergency measures in the immediate aftermath of an accident.*

### Amendment 4

#### ARTICLE 1, POINT 2 B (NEW)

Article 6, paragraph 4 (Directive 96/82/CE)

***2b. 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 for the purposes of Article 10 of the directive.*

*This provision does not entail any additional administrative burden in so far as the undertaking is already required to apply for prior authorisation from the competent authorities when making any physical changes.*

Amendment 5

ARTICLE 1, POINT 6 (B A) (NEW)

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

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

***“(ca) Member States shall ensure that the different methods used for drawing up safety reports are harmonised.”***

*Justification*

*The Council did not accept amendment 20 adopted by the EP at first reading on the questionable grounds that a single European method for drawing up safety reports would not be feasible in practice given the significant differences between chemical plants. This amendment reproduces the spirit of amendment 20 while leaving the Member States greater discretion.*

*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 safety distances varied from 100 to 1000 metres and from 100 to 1500 metres respectively depending on the country.*

Amendment 6

ARTICLE 1, POINT 10

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

10. The following paragraph shall be inserted in Article 12:

“1a. The Commission ***is invited***, in close cooperation with the Member States, to draw up guidelines defining a technical database to be used for assessing the compatibility between ***the*** establishments covered by this Directive and the areas ***described*** in paragraph 1. ***The definition of this database*** shall take account of the ***technical and scientific*** evaluations ***performed*** by the ***Member States***, the information obtained from operators and all other relevant information.”.

10. The following paragraph shall be inserted in Article 12:

“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 database ***of risk data and risk scenarios*** to be used for assessing the compatibility between ***existing*** establishments covered by this Directive and the ***sensitive*** areas ***listed*** in 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.*

*Within three years of [date of adoption of this Directive], 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 this Directive and the sensitive areas listed in paragraph 1.”*

*Justification*

*Reinstates amendment 55 adopted in first reading on 3 July 2002.*

Amendment 7

ARTICLE 1, POINT 10

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

*In Article 12, the following paragraph is added:*

*“1aa. 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*

*Reinstatement of amendment 31 from first reading.*

Amendment 8

ARTICLE 1, POINT 15 A (NEW)

Annex III, point (c), indent (v) (Directive 96/82/CE)

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

*“(v) Planning for emergencies: adoption and implementation of procedures to identify foreseeable emergencies by systematic analysis and to prepare, test and*

***review emergency plans to respond to such emergencies and specific training for the staff concerned. Such training shall be given to all staff working in the establishment, including sub-contracting staff.”***

*Justification*

*The issue of staff training is vital for prevention and emergency measures in the immediate aftermath of an accident. The Council has endorsed Parliament's concerns on this issue in principle.*

*Nonetheless, it is essential to make a number of improvements concerning the emergency measures to be taken in the immediate aftermath of an accident and the minimum accident prevention measures required and to ensure that immediate emergency measures can be taken as effectively as possible in the event of an accident by all staff working in the establishment.*

Amendment 9

ARTICLE 1, PARAGRAPH 15 B (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 showing areas which might be affected by the consequences of major accidents arising from the establishment.”***

*Justification*

*As regards information to the public, the pictorial representation, by means of a map, of the areas adjacent to the establishments subject to accident risks would not only facilitate the work of management, but provide the population concerned with clear and easily comprehensible information regarding the risks.*

*In essence the Council has incorporated Parliament's concerns regarding information to the public, but not the map. For this purpose Parliament has taken over the wording used by the Commission in its amended proposal (COM(2002) 540).*

*A retableting, in a modified form, of Amendment 46 adopted at first reading.*

Amendment 10

ANNEX, POINT 2 A (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:***

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

*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 was 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 even be classified as an oxidising agent.*

*The Council rejected Amendment 40 adopted by Parliament at first reading, without providing any justification. In view of its scientific basis it is therefore proposed to retable it.*

**Amendment 11**

**ANNEX, POINT 5 A (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 was 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 even be classified as an oxidising agent.*

*The Council rejected Amendment 42 adopted by Parliament at first reading, without providing any justification. In view of its scientific basis it is therefore proposed to retable it.*

#### Amendment 12

##### ANNEX, PARAGRAPH 3, POINT (c) (i)

Annex I, part 2, Note 1, paragraph 1, indents 3 a and 3 b (new) (Directive 96/82/EC)

**– Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy<sup>1</sup>;**

**– Council Directive 91/689/EEC of 12 December 1991 on hazardous waste<sup>2</sup>.**

<sup>1</sup>OJ L 327, 27.12.2000, p. 1.

<sup>2</sup>OJ L 377, 32.12.1991, p. 20.

Directive as last amended by Directive 94/31/EC (OJ L 168, 2.7.1994, p. 28).

#### *Justification*

*Reinstatement of amendment 43 adopted in first reading. 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.*

## EXPLANATORY STATEMENT

### **Introduction**

Your rapporteur welcomes, as a whole, the common position on the revision of the Seveso II Directive, adopted by the Council on 20 February 2003. The Council accepted and took over, either in their entirety or in modified form, a number of important concerns expressed by Parliament at first reading, in particular the amendments relating to the accident at Toulouse and the time limits for application of the directive to existing plants, as well as some of the amendments concerning the consultation of employees, information on safety measures and urban development planning.

However, some other important amendments adopted by the European Parliament were not accepted by the Council and your rapporteur therefore intends to table them again at second reading.

### **Proposed modifications**

#### ***Mining activities***

Your rapporteur notes the Commission's intention to draw up a legislative proposal on the waste produced by mining. However, he considers that the scale of the problem, highlighted by the accidents at Aznacollar and Baia Mare, justifies immediate action on the part of the legislator and hence the extension of the field of application of the Seveso II Directive to all mining activities, irrespective of how the substances are processed or prepared.

#### ***Potassium nitrate***

Similarities between ammonium nitrate and potassium nitrate prompted Parliament to include the latter among the specified substances, but it made a distinction between potassium nitrate in crystalline form and in 'prilled' (granular) form, more commonly used for agricultural purposes, which is not to be considered as an oxidising agent according to certified tests covered by the UN publication 'Recommendations on the Transport of Dangerous Goods: Manual of Tests and Criteria'. These amendments, incorporated by the Commission in its modified proposal, were not accepted by the Council, but no justification was given. In the light of scientific data currently available your rapporteur is therefore retabling these amendments.

#### ***Map showing risk areas***

The common position incorporated some of Parliament's concerns regarding information to public, but it did not accept the idea – backed by the Commission – of preparing a pictorial representation of the areas likely to be affected by the consequences of an accident arising from an establishment. Your rapporteur is therefore putting this idea forward once again in the new wording used by the Commission in its amended proposal.

#### ***Database***

Although the Council has accepted the principle of the amendment adopted by Parliament at first reading, it has not set any deadline for creating the data base. Your rapporteur finds the wording proposed by the Council acceptable, provided that it includes a deadline, which he proposes should be three years after the entry into force of the directive. However, the

Environment Committee has decided that it would be more advisable to retable the amendments on this aspect adopted at first reading.

### ***Training***

The rapporteur considers that the Council's proposed wording as regards staff training does not respond fully to Parliament's concerns regarding the initial emergency measures in the event of accidents and therefore proposes an amendment on the subject.

### **Conclusions**

Your rapporteur agrees with the Council and the Commission that the purpose of the proposal for a directive should be to respond to the problems linked to recent accidents and cannot constitute a comprehensive revision of the current provisions. Nevertheless, he considers that, without contradicting the original objective, the text should include the points set out above, which aim to remedy some of the shortcomings in the current legislation, which were, moreover, highlighted by the accidents which gave rise to the proposal to revise the Seveso II directive.