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Committee on the Environment, Public Health and Food Safety

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*****II**

DRAFT RECOMMENDATION FOR SECOND READING

on the Council common position for adopting a directive of the European Parliament and of the Council establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)
(12064/2/2005 – C6-...../2006 – 2004/0175(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Frederika Brepoels

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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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the Council common position for adopting a directive of the European Parliament and of the Council establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)
(12064/2/2005 – C6-...../2006 – 2004/0175(COD))**

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (12064/2/2005 – C6-...../2006),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM (2004/0175))²,
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 62 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A6-0000/2006),
1. Approves the common position as amended;
 2. Instructs its President to forward its position to the Council and Commission.

Council common position	Amendments by Parliament
Amendment 1 Recital 6	
(6) The infrastructures for spatial information in the Member States should be designed to ensure that spatial data are stored, made available and maintained at the most appropriate level; that it is possible to combine spatial data from different sources across the Community in a consistent way and share them between several users and applications; that it is possible for spatial data collected at one level of public authority to be shared between other public authorities <i>to the extent that this Directive imposes on such public authorities a duty to share spatial</i>	(6) The infrastructures for spatial information in the Member States should be designed to ensure that spatial data are stored, made available and maintained at the most appropriate level; that it is possible to combine spatial data from different sources across the Community in a consistent way and share them between several users and applications; that it is possible for spatial data collected at one level of public authority to be shared between other public authorities; that spatial data are made available under conditions which do not unduly restrict

¹ Texts Adopted, 7.6.2005, P6_TA(2005)0213.

² Not yet published in OJ.

data; that spatial data are made available under conditions which do not unduly restrict their extensive use; that it is easy to discover available spatial data, to evaluate their suitability for the purpose and to know the conditions applicable to their use.

their extensive use; that it is easy to discover available spatial data, to evaluate their suitability for the purpose and to know the conditions applicable to their use.

Amendment 2

Recital 18

(18) Experience in the Member States has shown that it is important, for the successful implementation of an infrastructure for spatial information, that a minimum number of services be made available to the public free of charge. Member States should therefore make available, as a minimum and free of charge, the services for discovering spatial data sets.

(18) Experience in the Member States has shown that it is important, for the successful implementation of an infrastructure for spatial information, that a minimum number of services be made available to the public free of charge. Member States should therefore make available, as a minimum and free of charge, the services for discovering *and viewing* spatial data sets.

Amendment 3

Recital 20

(20) In order to make information from various levels of public authority available, Member States should remove the practical obstacles faced in that regard by public authorities at national, regional and local level when performing their public tasks that may have a direct or indirect impact on the environment. *These practical obstacles should be removed at the point where the information is to be used for the public task.*

(20) In order to make information from various levels of public authority available, Member States should remove the practical obstacles faced in that regard by public authorities at national, regional and local level when performing their public tasks that may have a direct or indirect impact on the environment.

Amendment 4
Recital 22

(22) The mechanisms for sharing spatial data sets and services between government and other public administrations and natural or legal persons performing public administrative functions under national law ***may involve laws, regulations, licensing or financial arrangements or administrative procedures, for instance to protect the financial viability of those public authorities that have a duty placed on them to raise revenue, or for instance whose data are only partially subsidised by the Member State so that they have to recover the unsubsidised costs by charging the users, or for instance to guarantee the maintenance and update of those data.***

(22) The mechanisms for sharing spatial data sets and services between government and other public administrations and natural or legal persons performing public administrative functions under national law ***should take into account the need to protect the financial viability of public authorities, in particular those who have a duty to raise revenue. In any event the costs should not exceed the cost of collection, production, reproduction and dissemination.***

Justification

Article 6 of the PSI directive on the principles governing charging in a reworded version.

Amendment 5
Recital 22 a (new)

(22a) The provisions of this Directive do not affect the existence or ownership of public sector authorities' intellectual property rights.

Justification

Article 17, paragraph 9 reworded and made into a recital.

Amendment 6
Recital 23

(23) The possibility for public authorities who supply spatial data sets and services to license these sets and services to, and require payment from, other public authorities who use these spatial data sets and services could be provided for in the measures adopted by Member States in their transposition legislation. **deleted**

Amendment 7
Recital 24

(24) The provisions of point (f) of Article 13(1) and of Article 17(1) should be implemented and applied in full compliance with the principles relating to the protection of personal data in accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

(18a) The provision of network services should be implemented and applied in full compliance with the principles relating to the protection of personal data in accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Amendment 8
Recital 27

*(27) The effective implementation of infrastructures for spatial information requires coordination by all those with an interest in the establishment of such infrastructures, whether as contributors or users. Appropriate coordination structures should therefore be established **both in the Member States and at Community level.***

*(27) The effective implementation of infrastructures for spatial information requires coordination by all those with an interest in the establishment of such infrastructures, whether as contributors or users. Appropriate coordination structures should therefore be established **which extend to the various levels of government and take account of the distribution of powers and responsibilities within the Member States.***

Justification

Reinstatement of amendment 4 at first reading.

Amendment 9

Article 2

This Directive is without prejudice to ***Directives*** 2003/4/EC ***and*** 2003/98/EC.

1. This Directive is without prejudice to ***Directive*** 2003/4/EC, ***save where otherwise provided.***

2. ***This Directive is without prejudice to Directive*** 2003/98/EC.

Justification

Reinstatement of Article 3 of Commission proposal.

Amendment 10

Article 4, paragraph 7

7. The ***technical description of the*** data themes referred to in Annexes I, II and III may be adapted in accordance with the procedure referred to in Article 22(2), in order to take into account the evolving needs for spatial data in support of Community policies that affect the environment.

7. The ***spatial*** data themes referred to in Annexes I, II and III may be adapted in accordance with the procedure referred to in Article 22(2), in order to take into account the evolving needs for spatial data in support of Community policies that affect the environment.

Justification

Partial reinstatement of amendment 10 at first reading.

Amendment 11

Article 5, paragraph 2, point (c)

(c) the quality of spatial data, ***including whether they are validated;***

(c) the quality ***and validity*** of spatial data;

Justification

Reinstatement of Commission proposal which is clearer.

Amendment 12 Article 6

Member States shall create the metadata referred to in Article 5 in accordance with the following timetable:

(a) not later than **2 years** after the ***date of adoption of implementing rules in accordance with Article 5(4)*** in the case of the spatial data sets corresponding to the themes listed in Annexes I and II;

(b) not later than **5 years** after the ***date of adoption of implementing rules in accordance with Article 5(4)*** in the case of the spatial data sets corresponding to the themes listed in Annex III.

Member States shall create the metadata referred to in Article 5 in accordance with the following timetable:

(a) not later than **3 years** after the ***entry into force of this Directive*** in the case of the spatial data sets corresponding to the themes listed in Annexes I and II;

(b) not later than **6 years** after the ***entry into force of this Directive*** in the case of the spatial data sets corresponding to the themes listed in Annex III.

Justification

Partial reinstatement of amendment 15 at first reading.

Amendment 13 Article 7, paragraph 2

2. As a basis for developing the proposals for such implementing rules, the Commission shall undertake an analysis of the feasibility and expected costs and benefits. Member States shall, on request, provide the Commission with the information necessary to enable it to ***prepare this analysis. When proposing such rules, the Commission shall consult Member States within the Committee referred to in Article 22(1) on the results of its analysis. The adoption of such rules shall not result in excessive costs to a Member State.***

2. Member States shall, on request, provide the Commission with the information necessary to enable it to ***take into account feasibility and cost-benefit considerations as provided for in paragraph 1.***

Justification

The whole procedure of adopting implementing measures is too cumbersome.

Amendment 14 Article 7, paragraph 3

3. ***To the extent feasible***, Member States shall ensure that all newly collected or updated spatial data sets and the corresponding spatial data services are brought into conformity with the implementing rules referred to in paragraph 1 within two years of their adoption, and that other spatial data sets and services are brought into conformity with the implementing rules within seven years of their adoption.

3. Member States shall ensure that all newly collected or updated spatial data sets and the corresponding spatial data services are brought into conformity with the implementing rules referred to in paragraph 1 within two years of their adoption, and that other spatial data sets and services are brought into conformity with the implementing rules within seven years of their adoption.

Amendment 15 Article 7, paragraph 5

5. Representatives of Member States at national, regional and local level as well as other natural or legal persons with an interest in the spatial data concerned by virtue of their role in the infrastructure for spatial information, including users, producers, added value service providers or any coordinating body shall be given the opportunity, ***in accordance with applicable procedures***, to participate in preparatory discussions on the content of the implementing rules referred to in paragraph 1, prior to consideration by the Committee referred to in Article 22(1).

5. Representatives of Member States at national, regional and local level as well as other natural or legal persons with an interest in the spatial data concerned by virtue of their role in the infrastructure for spatial information, including users, producers, added value service providers or any coordinating body shall be given the opportunity to participate in preparatory discussions on the content of the implementing rules referred to in paragraph 1, prior to consideration by the Committee referred to in Article 22(1).

Justification

Partial reinstatement of amendment 17 at first reading.

Amendment 16
Article 8, paragraph 2, point (a)

(a) ***solutions to ensure unambiguous identification of*** spatial objects, to which identifiers under existing national systems can be mapped in order to ensure interoperability between them;

(a) ***a common system of unique identifiers for*** spatial objects, to which identifiers under existing national systems can be mapped in order to ensure interoperability between them;

Justification

Reinstatement of Commission proposal which is clearer.

Amendment 17
Article 11, paragraph 2, point (c)

(c) the quality of spatial data, ***including whether they are validated;***

(c) the quality ***and validity*** of spatial data;

Justification

Reinstatement of Commission proposal which is clearer.

Amendment 18
Article 13, paragraph 1, introductory sentence

1. By way of derogation from Article 11(1), Member States may limit public access to spatial data sets and services through the services referred to in points ***(a)*** to (e) of Article 11(1), or to the e-commerce services referred to in Article 14(3), where such access would adversely affect any of the following:

1. By way of derogation from ***Article 4(2) of Directive 2003/4/EC and Article 11(1) of this Directive***, Member States may limit public access to spatial data sets and services through the services referred to in points ***(b)*** to (e) of Article 11(1), or to the e-commerce services referred to in Article 14(3), where such access would adversely affect any of the following:

Justification

Reinstatement of Commission proposal in order not to allow for limiting public access to discovery services.

Amendment 19
Article 13, paragraph 1, point (e)

(e) intellectual property rights; *deleted*

Justification

Reinstatement of Commission proposal in order not to allow public authorities to use their intellectual property rights, created with tax money, to limit public access to certain spatial data.

Amendment 20
Article 13, paragraph 2, subparagraph 2

However, in cases where paragraph 1(d) or (f) is the ground for limiting access, the first subparagraph of this paragraph shall apply only when the access referred to in paragraph 1 concerns environmental information as defined in Article 2(1) of Directive 2003/4/EC. *deleted*

Justification

Deletion of an addition made by Council which is not entirely clear and could cause confusion.

Amendment 21
Article 14, paragraph 1

1. Member States shall ensure that:

1. Member States shall ensure that the services referred to in **points (a) and (b)** of Article 11(1) are available to the public free of charge.

*(a) the services referred to in **point (a)** of Article 11(1) are available to the public free of charge;*

*(b) the services referred to in **point (b)** of Article 11(1) are, as a rule, available to the public free of charge. However, in cases where charges and/or licences are an essential precondition for maintaining*

the spatial data sets and services or for fulfilling the requirements of already existing international spatial data infrastructure in a sustainable way, Member States may apply charges and/or licences either to the person providing the service to the public, or, where the service provider chooses, to the public itself.

Justification

Public access to the largest possible extent should be a key feature of INSPIRE.

Amendment 22
Article 14, paragraph 3

3. Where public authorities levy charges for the services referred to in points **(b)**, (c) or (e) of Article 11(1), Member States shall ensure that e-commerce services are available. Such services may be covered by disclaimers, click-licences **or licences**.

3. Where public authorities levy charges for the services referred to in points (c) or (e) of Article 11(1), Member States shall ensure that e-commerce services are available. Such services may be covered by disclaimers **or** click-licences.

Justification

Public access to the largest possible extent should be a key feature of INSPIRE.

Amendment 23
Article 17, paragraph 2

2. The measures provided for in paragraph 1 shall preclude any restrictions likely to create, **at the point of use**, practical obstacles to the sharing of spatial data sets and services.

2. The measures provided for in paragraph 1 shall preclude any restrictions likely to create practical obstacles to the sharing of spatial data sets and services.

Justification

Partial reinstatement of amendment 22 at first reading.

Amendment 24
Article 17, paragraph 3

3. ***The provisions of*** paragraph 2 ***shall not prevent*** public authorities that supply spatial data sets and services ***from licensing*** them to, and ***requiring*** payment from, the public authorities or institutions and bodies of the Community that use these spatial data sets and services.

3. ***Without prejudice to*** paragraph 2, ***Member States may allow*** public authorities that supply spatial data sets and services ***to license*** them to, and/or ***require*** payment from, the public authorities or institutions and bodies of the Community that use these spatial data sets and services. ***In any event, where charges are made, the total income from supplying documents shall not exceed the cost of collection, production, reproduction and dissemination.***

Justification

Data sharing between public authorities is the key added value of INSPIRE and needs to be the key principle governing the provisions of Article 17. In case of charges made, these charges should not exceed a reasonable amount.

Amendment 25
Article 17, paragraph 6

6. Where the arrangements for the sharing of spatial data sets and services provided for in paragraphs 1, 2 and 3 are made available in accordance with paragraphs 4 and 5, these arrangements may be accompanied by ***national*** requirements conditioning their use.

6. Where the arrangements for the sharing of spatial data sets and services provided for in paragraphs 1, 2 and 3 are made available in accordance with paragraphs 4 and 5, these arrangements may, ***without prejudice to paragraph 2***, be accompanied by requirements ***under national law*** conditioning their use.

Justification

Data sharing between public authorities is the key added value of INSPIRE and needs to be the key principle governing the provisions of Article 17.

Amendment 26
Article 17, paragraph 8

8. ***Without prejudice to paragraph 3***,

8. Member States shall provide the

Member States shall provide the institutions and bodies of the Community with access to spatial data sets and services in accordance with harmonised conditions. Implementing rules governing those conditions shall be adopted in accordance with the procedure referred to in Article 22(2).

institutions and bodies of the Community with access to spatial data sets and services in accordance with harmonised conditions. Implementing rules governing those conditions shall be adopted in accordance with the procedure referred to in Article 22(2).

Justification

Data sharing between public authorities is the key added value of INSPIRE and needs to be the key principle governing the provisions of Article 17.

Amendment 27
Article 17, paragraph 9

9. This Article does not affect the existence or ownership of public sector authorities' intellectual property rights. ***deleted***

Justification

This provision is self-evident and is therefore made into a recital.

Amendment 28
Article 18, subparagraph 1

Member States shall ensure that appropriate structures and mechanisms for coordinating the contributions of all those with an interest in their infrastructures for spatial information ***are designated***.

Member States shall ensure that appropriate structures and mechanisms ***are designated*** for coordinating, ***across the different levels of government***, the contributions of all those with an interest in their infrastructures for spatial information.

Justification

Partial reinstatement of amendment 33 at first reading.

Amendment 29
Article 19, paragraph 2

2. Each Member State shall designate a contact point, usually a public authority, to be responsible for contacts with the

2. Each Member State shall designate a contact point, usually a public authority, to be responsible for contacts with the

Commission in relation to this Directive.

Commission in relation to this Directive.
This contact point will be supported by a coordination structure, taking account of the distribution of powers and responsibilities within the Member States.

Justification

Partial reinstatement of amendment 34 at first reading.

Amendment 30
Article 21, paragraph 2, point (a)

(a) how public sector providers and users of spatial data sets and services and intermediary bodies are coordinated, and of the relationship with the third parties and of the organisation of quality assurance, ***as far as practicable***;

(a) how public sector providers and users of spatial data sets and services and intermediary bodies are coordinated, and of the relationship with the third parties and of the organisation of quality assurance;

Amendment 31
Article 24, paragraph 1, footnote

* ***Three*** years following the date of entry into force of this Directive.

* ***Two*** years following the date of entry into force of this Directive.

Justification

Reinstatement of Commission proposal.

Amendment 32
Annex I, paragraph 4 a (new)

4a. Addresses

Location of properties based on address identifiers, usually by road name, house number, postal code.

Justification

On a suggestion made by the Permanent Committee on the Cadastre of the EU this spatial data theme is moved from Annex II to Annex I.

Amendment 33
Annex I, paragraph 4 b (new)

4b. Cadastral parcels

Areas defined by cadastral registers or equivalent.

Justification

On a suggestion made by the Permanent Committee on the Cadastre of the EU this spatial data theme is moved from Annex II to Annex I.

Amendment 34
Annex II, paragraph 2

2. Addresses

deleted

Location of properties based on address identifiers, usually by road name, house number, postal code.

Justification

On a suggestion made by the Permanent Committee on the Cadastre of the EU this spatial data theme is moved from Annex II to Annex I.

Amendment 35
Annex II, paragraph 3

3. Cadastral parcels

deleted

Areas defined by cadastral registers or equivalent.

Justification

On a suggestion made by the Permanent Committee on the Cadastre of the EU this spatial data theme is moved from Annex II to Annex I.

EXPLANATORY STATEMENT

I. Background

Although a common European environmental policy has been in existence for decades, there are still major obstacles to access to and the use of spatial information at Community level. INSPIRE is designed to set up and operate an infrastructure for spatial information in Europe so as to streamline spatial information flows, information collection and coordination between stakeholders across sectors and across levels of government.

INSPIRE aims to give citizens a better understanding of environmental policy, enhance the accountability of environmental policy at local and regional level, the re-use, exchange and sharing of data between governments, create incentives for the collection of new, relevant environmental data and provide an instrument for making cross-border environmental policy more efficient and more effective.

INSPIRE seeks to make existing data infrastructures and environmental data in the Member States more comparable and clearer to understand at EU level. The proposal covers the information required to monitor the state of the environment (including air, water, soil and the natural landscape) so as to improve the situation. This will provide a sounder basis for all policy measures and policy decisions that have a direct or indirect impact on the environment.

II. First reading

The vote in plenary session of the European Parliament took place on 7 June 2005. Political agreement in the Council was reached at the end of June under the Luxembourg Presidency. On 23 January 2006 the Council's common position was finally approved.

At first reading Parliament was virtually unanimous in endorsing the rapporteur's approach. For instance, Parliament sought to reduce significantly the obstacles to the sharing of data between public authorities. Furthermore, it was keen to ensure compliance with the principle of subsidiarity as the Member States, regions and local authorities have a vital role to play in implementing the directive.

Parliament was particularly minded to draw attention to the fact that the public is entitled to certain information free of charge. However, the proposal does not rule out the authorities asking for a small fee when exchanging information.

Furthermore, Parliament took the view that intellectual property rights should not be an impediment to making information available, although additional conditions may be imposed (e.g. click-licence). The annexes to the proposal were also tightened up considerably on a number of points.

In general, Parliament stood firmly behind the aim of the proposal.

III. Common position and recommendation for second reading

Of the 49 amendments adopted at first reading, ten or so minor amendments and modifications to the annexes have been accepted in full or in part in the Council's common position.

Of the important core amendments very little remains. Consequently, your rapporteur proposes that they should be re-tabled in their original or a slightly amended form. For example, the Environment Committee wants intellectual property rights to be deleted from the list of exceptions that would restrict access to environmental information.

Free access, in other words access free of charge, must be guaranteed not only for search services but also for view services. The Committee wishes to take account of the cost issue but is totally opposed to interminable analyses and additional feasibility conditions. There must be a limit on any fees charged.

Furthermore, it is crucially important that in federal states, bearing in mind the constitutional distribution of powers, coordination structures should be set up to ensure that the directive can be implemented effectively.

INSPIRE will allow the Union to take a major step forward towards a more sustainable European environmental policy