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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

(Acts whose publication is obligatory)

**DECISION No 1855/2006/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 12 December 2006
establishing the Culture Programme (2007 to 2013)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the first indent of Article 151(5) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the Committee of the Regions ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) It is essential to promote cooperation and cultural exchanges in order to respect and promote the diversity of cultures and languages in Europe and improve knowledge among European citizens of European cultures other than their own, while at the same time heightening their awareness of the common European cultural heritage they share. Promoting cultural and linguistic cooperation and diversity thus helps to make European citizenship a tangible reality by encouraging direct participation by European citizens in the integration process.
- (2) An active cultural policy aimed at the preservation of European cultural diversity and the promotion of its common cultural elements and cultural heritage can contribute to improving the external visibility of the European Union.
- (3) For citizens to give their full support to, and participate fully in, European integration, greater emphasis should be placed on their common cultural values and roots as a key element of their identity and their membership of a society founded on freedom, equity, democracy, respect for human

dignity and integrity, tolerance and solidarity, in full compliance with the Charter of Fundamental Rights of the European Union.

- (4) It is essential that the cultural sector contribute to, and play a role in, broader European political developments. The cultural sector is an important employer in its own right and there is, in addition, a clear link between investment in culture and economic development, hence the importance of reinforcing cultural policies at regional, national and European level. Accordingly, the place of cultural industries in the developments taking place under the Lisbon Strategy should be strengthened, as these industries are making an increasingly large contribution to the European economy.
- (5) It is also necessary to promote active citizenship and strengthen the fight against exclusion in all its forms, including racism and xenophobia. Improving access to culture for as many as possible can be a means of combating social exclusion.
- (6) Article 3 of the Treaty stipulates that, in all the activities referred to in that Article, the Community is to aim at eliminating inequalities, and at promoting equality, between men and women.
- (7) The Kaleidoscope, Ariane, Raphael and Culture 2000 cultural programmes, set out respectively in Decisions Nos 719/96/EC ⁽³⁾, 2085/97/EC ⁽⁴⁾, 2228/97/EC ⁽⁵⁾ and 508/2000/EC ⁽⁶⁾, marked positive stages in the implementation of Community action on culture. Considerable experience has thus been acquired, particularly through the evaluation of these cultural programmes. It is at present worthwhile to rationalise and strengthen Community

⁽¹⁾ OJ C 164, 5.7.2005, p. 65.

⁽²⁾ Position of the European Parliament of 25 October 2005 (OJ C 272 E, 9.11.2006, p. 233), Council Common Position of 18 July 2006 (OJ C 238 E, 3.10.2006, p. 18) and Position of the European Parliament of 24 October 2006 (not yet published in the Official Journal). Council Decision of 11 December 2006.

⁽³⁾ Decision No 719/96/EC of the European Parliament and of the Council of 29 March 1996 establishing a programme to support artistic and cultural activities having a European dimension (Kaleidoscope) (OJ L 99, 20.4.1996, p. 20). Decision as amended by Decision No 477/1999/EC (OJ L 57, 5.3.1999, p. 2).

⁽⁴⁾ Decision No 2085/97/EC of the European Parliament and of the Council of 6 October 1997 establishing a programme of support, including translation, in the field of books and reading (Ariane) (OJ L 291, 24.10.1997, p. 26). Decision as amended by Decision No 476/1999/EC (OJ L 57, 5.3.1999, p. 1).

⁽⁵⁾ Decision No 2228/97/EC of the European Parliament and of the Council of 13 October 1997 establishing a Community action programme in the field of cultural heritage (The Raphael Programme) (OJ L 305, 8.11.1997, p. 31). Decision as repealed by Decision No 508/2000/EC (OJ L 63, 10.3.2000, p. 1).

⁽⁶⁾ Decision No 508/2000/EC of the European Parliament and of the Council of 14 February 2000 establishing the Culture 2000 programme (OJ L 63, 10.3.2000, p. 1). Decision as last amended by Council Regulation (EC) No 885/2004 (OJ L 168, 1.5.2004, p. 1).

cultural action on the basis of the results of these evaluations, the results of consultation with all interested parties and recent work by the European institutions. It is therefore appropriate to establish a programme to this end.

- (8) The European institutions have themselves spoken out on many occasions on subjects relating to Community cultural action and the challenges of cultural cooperation, in particular in Council Resolutions of 25 June 2002 on a new work plan on European cooperation in the field of culture ⁽¹⁾ and of 19 December 2002 implementing the work plan for European cooperation in the field of culture ⁽²⁾, resolutions of the European Parliament of 5 September 2001 on cultural cooperation in the European Union ⁽³⁾, of 28 February 2002 on the implementation of the Culture 2000 Programme ⁽⁴⁾, of 22 October 2002 on the importance and dynamism of the theatre and the performing arts in an enlarged Europe ⁽⁵⁾, and of 4 September 2003 on Cultural Industries ⁽⁶⁾, and the opinion of the Committee of the Regions of 9 October 2003 on the extension of the Culture 2000 Programme.
- (9) The Council, in its abovementioned resolutions, has stressed the need to adopt a more coherent approach at Community level with regard to culture, and that European added value is an essential and determining concept in the context of European cultural cooperation, and a general condition for Community measures in the field of culture.
- (10) In order to make this common cultural area for the peoples of Europe a reality, it is important to promote the transnational mobility of cultural players and the transnational circulation of artistic and cultural works and products, and to encourage dialogue and cultural exchanges.
- (11) The Council, in its conclusions of 16 November 2004 relating to the work plan on culture (2005-2006), the European Parliament in its resolution of 4 September 2003 on Cultural Industries, and the European Economic and Social Committee in its opinion of 28 January 2004 on cultural industries in Europe, have expressed their views on the need to take greater account of the specific economic and social features of non-audiovisual cultural industries. Moreover, the preparatory actions for cooperation on cultural matters promoted between 2002-2004 should be taken into account in the new programme.
- (12) In this context, there is a case for promoting increased cooperation between cultural players by encouraging them to form multi-annual cooperation projects, thus enabling them to develop common activities, to provide support for more targeted measures with a real European added value, to support symbolic cultural events, to support European cultural cooperation organisations and to encourage analyses on chosen themes of European interest, as well
- as the collection and dissemination of information and activities aimed at maximising the impact of projects in the field of European cultural cooperation and European cultural policy development.
- (13) Under Decision No 1622/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community action for the European Capital of Culture event for the years 2007 to 2019 ⁽⁷⁾ significant funding should be given to this event, which has a high profile among Europeans and helps to strengthen the feeling of belonging to a common cultural area. In the context of this event, the accent should be on trans-European cultural cooperation.
- (14) Support should be given to the operation of organisations working for European cultural cooperation and thus playing the role of ambassadors of European culture, based on the experience acquired by the European Union in the context of Decision No 792/2004/EC of the European Parliament and of the Council of 21 April 2004 establishing a Community action programme to promote bodies active at European level in the field of culture ⁽⁸⁾.
- (15) It is necessary for the Programme, in compliance with the principle of freedom of expression, to contribute to the European Union's efforts to promote sustainable development and to combat all forms of discrimination.
- (16) The European Union candidate countries and EFTA countries which are members of the EEA Agreement should be recognised as potential participants in Community programmes in accordance with the agreements concluded with those countries.
- (17) The European Council of 19 and 20 June 2003 adopted the 'Thessaloniki Agenda for the Western Balkans: moving towards European integration', laying down that Community programmes should be open to the countries in the Stabilisation and Association Process on the basis of framework agreements to be signed between the Community and those countries. If they wish, those countries should be able, depending on budgetary considerations or political priorities, to take part in the Programme or benefit from a more limited formula for cooperation, on the basis of supplementary appropriations and specific procedures to be agreed between the parties concerned.
- (18) The Programme should also be open to cooperation with other third countries which have signed agreements with the Community containing a cultural strand, in accordance with procedures to be defined.
- (19) It is necessary, in order to increase the added value of the Community action, to ensure coherence and complemen-

⁽¹⁾ OJ C 162, 6.7.2002, p. 5.

⁽²⁾ OJ C 13, 18.1.2003, p. 5.

⁽³⁾ OJ C 72 E, 21.3.2002, p. 142.

⁽⁴⁾ OJ C 293 E, 28.11.2002, p. 105.

⁽⁵⁾ OJ C 300 E, 11.12.2003, p. 156.

⁽⁶⁾ OJ C 76 E, 25.3.2004, p. 459.

⁽⁷⁾ OJ L 304, 3.11.2006, p. 1.

⁽⁸⁾ OJ L 138, 30.4.2004, p. 40.

tarity between actions carried out within the framework of this Decision and other relevant Community policies, actions and instruments, in compliance with Article 151(4) of the Treaty. Particular attention should be paid to the interface of Community measures in the fields of culture and education and to actions which promote exchanges of best practice and closer cooperation at European level.

- (20) With regard to the implementation of Community support, the specific nature of the cultural sector in Europe should be taken into account, and particular care should be taken to ensure that administrative and financial procedures are simplified as much as possible and adapted to the objectives pursued as well as to practices and developments in the cultural sector.
- (21) The Commission, Member States and the cultural contact points should work to encourage the participation of smaller operators in the multi-annual cooperation projects and the organisation of activities aimed at bringing together potential project partners.
- (22) The Programme should bring together the specific qualities and expertise of cultural operators from throughout Europe. Where necessary, the Commission and Member States should take measures to address low participation rates of cultural operators in any Member State or participating country.
- (23) It is worthwhile ensuring, within the framework of cooperation between the Commission and Member States, ongoing monitoring and evaluation of the Programme in order to enable readjustments, particularly within the priorities for the implementation of measures. The evaluation should include an external evaluation to be conducted by independent, impartial bodies.
- (24) The procedures for monitoring and evaluating the Programme should make use of objectives and indicators which are specific, measurable, achievable, relevant and timed.
- (25) Suitable measures should be implemented to prevent irregularities and fraud and to recover funds which have been lost or transferred or used improperly.
- (26) It is appropriate to establish a single financing and programming instrument for cultural cooperation, entitled the 'Culture Programme', for the period from 1 January 2007 to 31 December 2013.
- (27) This Decision lays down, for the entire duration of the Programme, a financial envelope constituting the prime reference, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 between the

European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾.

- (28) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (29) The measures necessary for the financial implementation of this Decision should be adopted in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽³⁾ (hereinafter referred to as 'the Financial Regulation'), and with Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 ⁽⁴⁾.
- (30) Community action is complementary to national or regional action in the field of cultural cooperation. Since the objectives of this Decision, namely to enhance the European cultural area based on common cultural heritage (transnational mobility of cultural players in Europe, transnational circulation of works of art and cultural and artistic products and intercultural dialogue) cannot be sufficiently achieved by the Member States owing to their transnational character, and can therefore, by reason of the scale or effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.
- (31) There should be transitional provisions in order to ensure a smooth transition between the programmes drawn up by Decisions No 508/2000/EC and No 792/2004/EC on the one hand and, on the other, the Programme established by this Decision,

HAVE DECIDED AS FOLLOWS:

Article 1

Establishment and duration

- This Decision establishes the Culture Programme, a single multi-annual programme for Community measures in the field of culture open to all cultural sectors and all categories of cultural operators (hereinafter referred to as 'the Programme').
- The Programme shall be implemented for the period from 1 January 2007 to 31 December 2013.

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽³⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁴⁾ OJ L 357, 31.12.2002, p. 1. Regulation as last amended by Commission Regulation (EC, Euratom) No 1248/2006 (OJ L 227, 19.8.2006, p. 3).

*Article 2***Budget**

1. The financial envelope for the implementation of the Programme for the period referred to in Article 1 is hereby set at EUR 400 million.
2. Annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.

*Article 3***Objectives**

1. The general objective of the Programme shall be to enhance the cultural area shared by Europeans and based on a common cultural heritage through the development of cultural cooperation between the creators, cultural players and cultural institutions of the countries taking part in the Programme, with a view to encouraging the emergence of European citizenship. The Programme shall be open to the participation of non-audiovisual cultural industries, in particular small cultural enterprises, where such industries are acting in a non-profit-making cultural capacity.
2. The specific objectives of the Programme are:
 - (a) to promote the transnational mobility of cultural players;
 - (b) to encourage the transnational circulation of works and cultural and artistic products;
 - (c) to encourage intercultural dialogue.

*Article 4***Fields of action**

1. The objectives of the Programme shall be pursued through the implementation of the following measures, as described in the Annex:
 - (a) support for cultural actions, as follows:
 - multi-annual cooperation projects,
 - cooperation measures,
 - special actions;
 - (b) support for bodies active at European level in the field of culture;
 - (c) support for analyses and the collection and dissemination of information and for activities maximising the impact of projects in the field of European cultural cooperation and European cultural policy development.

2. These measures shall be carried out in accordance with the provisions set out in the Annex.

*Article 5***Provisions concerning third countries**

1. The Programme shall be open to the participation of the following countries:
 - (a) EFTA countries which are members of the EEA, in accordance with the provisions of the EEA Agreement;
 - (b) candidate countries benefiting from a pre-accession strategy for accession to the Union, in accordance with the general principles and with the general conditions and procedures for the participation of these countries in the Community programmes established in the framework agreements;
 - (c) the countries of the Western Balkans in accordance with the procedures defined with those countries following the framework agreements providing for their participation in Community programmes.

Provided that the conditions are met and additional appropriations are paid, the countries referred to in this paragraph shall participate fully in the Programme.

2. The Programme shall also be open to cooperation with other third countries which have concluded association or cooperation agreements with the Community which include cultural clauses, on the basis of supplementary appropriations and specific procedures to be laid down.

The countries of the Western Balkans referred to in paragraph 1 (c) which do not wish to benefit from full participation in the Programme may benefit from cooperation with the Programme under the conditions laid down in this paragraph.

*Article 6***Cooperation with international organisations**

The Programme shall permit joint action with international organisations competent in the field of culture, such as UNESCO or the Council of Europe, on the basis of joint contributions and in accordance with the various rules prevailing in each institution or organisation for the realisation of the measures listed in Article 4.

*Article 7***Complementarity with other Community instruments**

The Commission shall ensure a link between the Programme and other Community instruments, particularly those relating to the Structural Funds and those in the fields of education, vocational training, research, information society, citizenship, youth, sport, languages, social inclusion, EU external relations and combating all forms of discrimination.

*Article 8***Implementation**

1. The Commission shall implement the Community actions which form the subject of the Programme in accordance with the Annex.

2. The following measures shall be adopted in accordance with the procedure referred to in Article 9(2):

- (a) the annual work plan, including priorities, selection criteria and procedures;
- (b) the annual budget and the breakdown of funds among the different actions of the Programme;
- (c) the procedures for monitoring and evaluating the Programme;
- (d) the financial support to be provided by the Community under Article 4(1)(a), first indent: amounts, duration, distribution and beneficiaries.

3. All other measures necessary for the implementation of this Decision shall be adopted in accordance with the procedure referred to in Article 9(3).

*Article 9***Committee**

- 1. The Commission shall be assisted by a committee.
- 2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at two months.

- 3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
- 4. The committee shall adopt its Rules of Procedure.

*Article 10***Cultural contact points**

1. The cultural contact points as defined in section I.3.1 of the Annex shall act as implementing bodies for the dissemination of information on the Programme at national level, having regard to Article 54(2)(c) and (3) of the Financial Regulation.

2. The cultural contact points shall comply with the following criteria:

- (a) have an adequate number of staff, with professional and linguistic capacities appropriate for work in an environment of international cooperation;

(b) have an appropriate infrastructure, in particular as regards information and communications technology;

(c) operate in an administrative context which enables them to carry out their tasks satisfactorily and to avoid conflicts of interest.

*Article 11***Financial provisions**

1. Financial aid shall take the form of grants to legal persons. Grants may in certain cases be awarded to natural persons under the terms of Article 114(1) of the Financial Regulation. The Commission may also award prizes to natural or legal persons for actions or projects implemented under the Programme. Depending on the nature of the action, flat-rate financing and/or the application of unit cost rates may be authorised.

2. The Commission may decide, in accordance with the characteristics of the beneficiaries and the nature of the actions, whether to exempt them from verification of the professional competencies and qualifications required to complete the proposed action or work programme.

3. Specific activities by the European Capitals of Culture designated pursuant to Decision 1419/1999/EC may receive a grant or a prize.

*Article 12***Contribution to other Community objectives**

The Programme shall contribute to the strengthening of the transversal objectives of the Community, in particular by:

- (a) promoting the fundamental principle of freedom of expression;
- (b) encouraging greater awareness of the importance of contributing to sustainable development;
- (c) seeking to promote mutual understanding and tolerance within the European Union;
- (d) contributing to the elimination of all discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Particular attention shall be given to coherence and complementarity between the Programme and Community policies in the field of cultural cooperation with third countries.

*Article 13***Monitoring and evaluation**

1. The Commission shall ensure regular monitoring of the Programme against its objectives. The results of the monitoring and evaluation process shall be used when implementing the Programme.

Monitoring shall include in particular the drawing up of the reports referred to in paragraph 3(a) and (c).

The specific objectives of the Programme may, on the basis of the results of monitoring reports, be revised in accordance with the procedure laid down in Article 251 of the Treaty.

2. The Commission shall ensure regular, external and independent evaluation of the Programme.

3. The Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions:

- (a) an interim evaluation report on the results obtained and on the qualitative and quantitative aspects of the implementation of the Programme not later than 31 December 2010;
- (b) a communication on the continuation of the Programme not later than 31 December 2011;
- (c) an ex post evaluation report not later than 31 December 2015.

Article 14

Transitional provisions

Actions initiated before 31 December 2006 on the basis of Decisions No 508/2000/EC and No 792/2004/EC shall continue to be administered until their closure in accordance with the provisions of these Decisions.

The committee set up under the terms of Article 5 of Decision No 508/2000/EC shall be replaced by the committee provided for in Article 9 of this Decision.

Article 15

Entry into force

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Strasbourg, 12 December 2006.

For the European Parliament

President

J. BORRELL FONTELLES

For the Council

President

M. PEKKARINEN

ANNEX

I. DESCRIPTION OF ACTIVITIES AND EVENTS

1. **First strand: support for cultural actions**1.1. *Multi-annual cooperation projects*

The Programme shall support sustainable and structured cultural cooperation projects in order to bring together the specific quality and expertise of cultural operators throughout the whole of Europe. This support is intended to assist the cooperation projects in their start-up and structuring phase or in their geographical extension phase. The aim shall be to encourage them to establish sustainable foundations and achieve financial autonomy.

Each cooperation project shall involve at least six operators from six different countries participating in the Programme. Its purpose shall be to bring together a variety of operators from one or more sectors for various multi-annual activities, which may be sectoral or cross-sectoral in nature but which must pursue a common objective.

Each cooperation project shall be intended to carry out a number of structured, multi-annual cultural activities. These activities are to be implemented throughout the duration of Community financing. They must have at least two of the three specific objectives indicated in Article 3(2). Priority will be given to cooperation projects intending to develop activities meeting the three specific objectives in that Article.

The cooperation projects shall be selected following calls for proposals pursuant to the Financial Regulation. In this context, selection will be made on the basis, among other things, of the recognised expertise of co-organisers in their field of activity, their financial and operational capacity to carry out the proposed activities, and the quality of these activities and the extent to which they meet the general objective and specific objectives of the Programme, as set out in Article 3.

The cooperation projects must be founded on a cooperation agreement, i.e. a common document with a legal form in one of the participating countries and signed by all co-organisers.

Community support may not exceed 50 % of the project budget and shall be degressive in nature. It may not exceed EUR 500 000 per year for all activities of the cooperation projects. This support shall be granted for a period of three to five years.

By way of illustration, approximately 32 % of the total budget allocated to the Programme shall be devoted to this type of support.

1.2. *Cooperation measures*

The Programme shall support sectoral or cross-sectoral cultural cooperation actions between European operators. Priority shall be given to creativity and innovation. Actions aimed at exploring avenues for cooperation in order to develop them over the longer term will be particularly encouraged.

Each action shall be designed and carried out in partnership by at least three cultural operators in three different participating countries, whether or not these operators come from one or more sectors.

Actions shall be selected following calls for proposals pursuant to the Financial Regulation. In this context, selection will be made on the basis of the recognised expertise of co-organisers, their financial and operational capacity to carry out the proposed activities, the quality of these activities and the extent to which they meet the general objective and specific objectives of the Programme, as set out in Article 3.

Community support may not exceed 50 % of the project budget. It may not be less than EUR 50 000 nor more than EUR 200 000. This support shall be granted for a maximum of 24 months.

The conditions set out for this action concerning the minimum number of operators required in order to present projects, as well as the minimum and maximum amounts for Community support, may be adapted to take account of the specific conditions of literary translation.

By way of illustration, approximately 29 % of the total budget allocated to the Programme shall be devoted to this type of support.

1.3. *Special actions*

The Programme shall also support special actions. These actions shall be special in that they should be substantial in scale and scope, strike a significant chord with the peoples of Europe and help to increase their sense of belonging to the same community, make them aware of the cultural diversity of Member States, and also contribute to intercultural and international dialogue. They must meet at least two of the three specific objectives set out in Article 3.

These special actions shall also help to raise the visibility of Community cultural action both within and beyond the European Union. They shall also contribute to raising global awareness of the wealth and diversity of European culture.

Significant support will be given to the 'European Capitals of Culture' in order to help implement activities stressing European visibility and trans-European cultural cooperation.

Special actions may also include the awarding of prizes, in so far as they highlight artists, works or cultural or artistic achievements, make them known beyond national borders and thus encourage mobility and exchanges.

Support may also be given in this context to cooperation with third countries and international organisations, as set out in Article 5(2) and Article 6.

The examples given above do not constitute an exhaustive list of measures likely to be supported under this sub-strand of the Programme.

The selection procedures for special actions will depend on the action in question. Financing will be granted following calls for proposals and invitations to tender, except in the cases referred to in Articles 54 and 168 of the Financial Regulation. Account will also be taken of the extent to which each action meets the general objective and specific objectives of the Programme, as set out in Article 3 of this Decision.

Community support may not exceed 60 % of the project budget.

By way of illustration, approximately 16 % of the total budget allocated to the Programme shall be devoted to this type of support.

2. **Second strand: support for bodies active at European level in the field of culture**

This support shall take the form of an operating grant to co-finance expenditure associated with the permanent work programme of a body which pursues an aim of general European interest in the field of culture or an objective forming part of the Union's policy in this area.

Provision shall be made for these grants to be awarded on the basis of annual calls for proposals.

By way of illustration, approximately 10 % of the total budget allocated to the Programme shall be devoted to this strand.

Support may be given to bodies working for cultural cooperation in one or more of the following ways:

- providing representation at Community level,
- collecting or disseminating information for facilitating trans-European Community cultural cooperation,
- networking at European level for bodies active in the field of culture,
- participating in cultural cooperation projects or acting as ambassadors for European culture.

These bodies must present a real European dimension. In this regard, they must carry out their activities at European level, alone or in the form of various coordinated associations, and their structure (registered members) and activities must have a potential influence at European Union level or cover at least seven European countries.

This strand shall be open to the bodies supported under Part 2 of Annex I to Decision No 792/2004/EC as well as any other body active at European level in the field of culture, provided that they meet the objectives set out in Article 3 of this Decision and comply with the terms and conditions of this Decision.

The beneficiaries of these operating grants shall be selected through a call for proposals. This shall be done on the basis of matching the bodies' work programme with the specific objectives set out in Article 3.

The total operating grant awarded under this strand may not exceed 80 % of the body's admissible expenditure for the year in which the grant is awarded.

3. Third strand: support for analyses and for the collection and dissemination of information and for maximising the impact of projects in the field of cultural cooperation

By way of illustration, approximately 5 % of the total budget allocated to the Programme shall be devoted to this strand.

3.1. Support for cultural contact points

In order to ensure targeted, effective grass-roots dissemination of practical information on the Programme, it shall provide for support from cultural contact points. These bodies, acting at national level, shall be set up on a voluntary basis according to Article 39 of Regulation (EC, Euratom) No 2342/2002.

The task of the cultural contact points shall be to:

- promote the Programme,
- facilitate access to the Programme for, and encourage participation in its activities by, as many professionals and operators in the cultural field as possible, by means of an effective dissemination of information and by developing appropriate networking initiatives between themselves,
- provide an efficient link with the various institutions providing aid to the cultural sector in Member States, thus contributing to complementarity between the measures taken under the Programme and national support measures,
- provide information on other Community programmes open for cultural projects if required.

3.2. Support for analyses in the field of cultural cooperation

The Programme shall support the carrying out of studies and analyses in the field of European cultural cooperation and European cultural policy development. The aim of this support shall be to increase the volume and quality of information and data to develop comparative data and analysis on cultural cooperation at European level, particularly with regard to the mobility of creators and cultural players, the circulation of works of art and artistic and cultural products and intercultural dialogue.

Studies and analyses contributing to increasing knowledge of the phenomenon of trans-European cultural cooperation and to creating favourable conditions for it to flourish may be supported under this strand. Projects aimed at collecting and analysing statistics will be particularly encouraged.

3.3. Support for the collection and dissemination of information and for maximising the impact of projects in the field of cultural cooperation.

The Programme shall support the collection and dissemination of information and activities aimed at maximising the impact of projects via the development of an Internet tool targeted at the needs of culture professionals in the field of trans-European cultural cooperation.

This tool should make possible the exchange of experience and good practice and the dissemination of information concerning the Programme as well as trans-European cultural cooperation in the broad sense.

II. PROGRAMME MANAGEMENT

The Programme's financial allocation may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities, required directly for the management and the realisation of the objectives of the Programme, in particular, studies, meetings, information and publication actions, expenses linked to computer networks focusing on information exchange, together with all other technical and administrative assistance expense to which the Commission may have recourse for the management of the Programme.

III. CONTROLS AND AUDITS

For projects selected in accordance with the procedure described in Article 11(2), a sampling audit system will be established.

The beneficiary of a grant shall make available to the Commission all supporting documents relating to expenditure for a period of five years reckoned from the date of the final payment. The beneficiary of a grant shall ensure that, where applicable, supporting documents in the possession of partners or members are made available to the Commission.

The Commission may have an audit of the use made of the grant carried out either directly by its own staff or by any other qualified outside body of its choice. Such audits may be carried out throughout the lifetime of the contract and for a period of five years from the date of payment of the balance. Where appropriate, the audit findings may lead to recovery decisions by the Commission.

Commission staff and outside personnel authorised by the Commission shall have appropriate access to the offices of the beneficiary and to all the information, including information in electronic format, needed in order to conduct such audits.

The Court of Auditors and the European Anti-Fraud Office (OLAF) shall enjoy the same rights, especially those of access, as the Commission.

In order to protect the financial interests of the Community against fraud and other irregularities, the Commission may carry out on-the-spot checks and inspections under the Programme in accordance with Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾. Where necessary, investigations shall be conducted by OLAF in accordance with Regulation (EC) No 1073/1999 of the European Parliament and of the Council ⁽²⁾.

IV. INFORMATION, COMMUNICATION AND ACTIVITIES AIMED AT MAXIMISING THE IMPACT OF PROJECTS

1. **Commission**

The Commission may organise seminars, conferences or meetings in order to facilitate the implementation of the Programme, and undertake information, publication, dissemination and other activities aimed at maximising the impact of projects as appropriate, as well as the monitoring and evaluation of the Programme. Such activities may be financed by means of grants, or the public procurement process, or be organised and financed directly by the Commission.

2. **Contact points**

The Commission and Member States shall organise on a voluntary basis and reinforce the exchange of information useful for the implementation of the Programme via the cultural contact points acting as implementing bodies at national level, under the terms of Article 54(2)(c) and (3) of the Financial Regulation.

3. **Member States**

Without prejudice to Article 87 of the Treaty, Member States may, if necessary, establish support schemes for individual mobility of cultural players in order to address their low participation in the Programme. This support may take the form of travel grants for cultural operators in order to facilitate the preparatory phase of transnational cultural projects.

⁽¹⁾ OJ L 292, 15.11.1996, p. 2.

⁽²⁾ OJ L 136, 31.5.1999, p. 1.

V. OVERALL BUDGET BREAKDOWN

Breakdown of the annual budget for the Programme

	Percentage of the budget
Strand 1 (support for cultural actions)	Approximately 77 %
— multi-annual cooperation projects	Approximately 32 %
— cooperation measures	Approximately 29 %
— special actions	Approximately 16 %
Strand 2 (support for bodies active at European level in the field of culture)	Approximately 10 %
Strand 3 — (support for analysis, collection and dissemination of information)	Approximately 5 %
Total operational expenditure	Approximately 92 %
Programme management	Approximately 8 %

These percentages are indicative and subject to change by the Committee provided for in Article 9 in accordance with the procedure referred to in Article 9(2).

DIRECTIVE 2006/116/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 12 December 2006****on the term of protection of copyright and certain related rights****(codified version)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 47(2), 55 and 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) Council Directive 93/98/EEC of 29 October 1993 harmonising the term of protection of copyright and certain related rights ⁽³⁾ has been substantially amended ⁽⁴⁾. In the interests of clarity and rationality the said Directive should be codified.
- (2) The Berne Convention for the protection of literary and artistic works and the International Convention for the protection of performers, producers of phonograms and broadcasting organisations (Rome Convention) lay down only minimum terms of protection of the rights they refer to, leaving the Contracting States free to grant longer terms. Certain Member States have exercised this entitlement. In addition, some Member States have not yet become party to the Rome Convention.
- (3) There are consequently differences between the national laws governing the terms of protection of copyright and related rights, which are liable to impede the free movement of goods and freedom to provide services and to distort competition in the common market. Therefore, with a view to the smooth operation of the internal market, the laws of the Member States should be harmonised so as to make terms of protection identical throughout the Community.
- (4) It is important to lay down not only the terms of protection as such, but also certain implementing arrangements, such as the date from which each term of protection is calculated.
- (5) The provisions of this Directive should not affect the application by the Member States of the provisions of

Article 14 bis (2)(b), (c) and (d) and (3) of the Berne Convention.

- (6) The minimum term of protection laid down by the Berne Convention, namely the life of the author and 50 years after his death, was intended to provide protection for the author and the first two generations of his descendants. The average lifespan in the Community has grown longer, to the point where this term is no longer sufficient to cover two generations.
- (7) Certain Member States have granted a term longer than 50 years after the death of the author in order to offset the effects of the world wars on the exploitation of authors' works.
- (8) For the protection of related rights certain Member States have introduced a term of 50 years after lawful publication or lawful communication to the public.
- (9) The Diplomatic Conference held in December 1996, under the auspices of the World Intellectual Property Organization (WIPO), led to the adoption of the WIPO Performances and Phonograms Treaty, which deals with the protection of performers and producers of phonograms. This Treaty took the form of a substantial up-date of the international protection of related rights.
- (10) Due regard for established rights is one of the general principles of law protected by the Community legal order. Therefore, the terms of protection of copyright and related rights established by Community law cannot have the effect of reducing the protection enjoyed by rightholders in the Community before the entry into force of Directive 93/98/EEC. In order to keep the effects of transitional measures to a minimum and to allow the internal market to function smoothly, those terms of protection should be applied for long periods.
- (11) The level of protection of copyright and related rights should be high, since those rights are fundamental to intellectual creation. Their protection ensures the maintenance and development of creativity in the interest of authors, cultural industries, consumers and society as a whole.

⁽¹⁾ Opinion of 26 October 2006 (not yet published in the Official Journal).

⁽²⁾ Opinion of the European Parliament of 12 October 2006 (not yet published in the Official Journal) and Council Decision of 30 November 2006.

⁽³⁾ OJ L 290, 24.11.1993, p. 9. Directive as amended by Directive 2001/29/EC of the European Parliament and of the Council (OJ L 167, 22.6.2001, p. 10).

⁽⁴⁾ See Annex I, Part A.

- (12) In order to establish a high level of protection which at the same time meets the requirements of the internal market and the need to establish a legal environment conducive to the harmonious development of literary and artistic creation in the Community, the term of protection for copyright should be harmonised at 70 years after the death of the author or 70 years after the work is lawfully made available to the public, and for related rights at 50 years after the event which sets the term running.
- (13) Collections are protected according to Article 2(5) of the Berne Convention when, by reason of the selection and arrangement of their content, they constitute intellectual creations. Those works are protected as such, without prejudice to the copyright in each of the works forming part of such collections. Consequently, specific terms of protection may apply to works included in collections.
- (14) In all cases where one or more physical persons are identified as authors, the term of protection should be calculated after their death. The question of authorship of the whole or a part of a work is a question of fact which the national courts may have to decide.
- (15) Terms of protection should be calculated from the first day of January of the year following the relevant event, as they are in the Berne and Rome Conventions.
- (16) The protection of photographs in the Member States is the subject of varying regimes. A photographic work within the meaning of the Berne Convention is to be considered original if it is the author's own intellectual creation reflecting his personality, no other criteria such as merit or purpose being taken into account. The protection of other photographs should be left to national law.
- (17) In order to avoid differences in the term of protection as regards related rights it is necessary to provide the same starting point for the calculation of the term throughout the Community. The performance, fixation, transmission, lawful publication, and lawful communication to the public, that is to say the means of making a subject of a related right perceptible in all appropriate ways to persons in general, should be taken into account for the calculation of the term of protection regardless of the country where this performance, fixation, transmission, lawful publication, or lawful communication to the public takes place.
- (18) The rights of broadcasting organisations in their broadcasts, whether these broadcasts are transmitted by wire or over the air, including by cable or satellite, should not be perpetual. It is therefore necessary to have the term of protection running from the first transmission of a particular broadcast only. This provision is understood to avoid a new term running in cases where a broadcast is identical to a previous one.
- (19) The Member States should remain free to maintain or introduce other rights related to copyright in particular in relation to the protection of critical and scientific publications. In order to ensure transparency at Community level, it is however necessary for Member States which introduce new related rights to notify the Commission.
- (20) It should be made clear that this Directive does not apply to moral rights.
- (21) For works whose country of origin within the meaning of the Berne Convention is a third country and whose author is not a Community national, comparison of terms of protection should be applied, provided that the term accorded in the Community does not exceed the term laid down in this Directive.
- (22) Where a rightholder who is not a Community national qualifies for protection under an international agreement, the term of protection of related rights should be the same as that laid down in this Directive. However, this term should not exceed that fixed in the third country of which the rightholder is a national.
- (23) Comparison of terms should not result in Member States being brought into conflict with their international obligations.
- (24) Member States should remain free to adopt provisions on the interpretation, adaptation and further execution of contracts on the exploitation of protected works and other subject matter which were concluded before the extension of the term of protection resulting from this Directive.
- (25) Respect of acquired rights and legitimate expectations is part of the Community legal order. Member States may provide in particular that in certain circumstances the copyright and related rights which are revived pursuant to this Directive may not give rise to payments by persons who undertook in good faith the exploitation of the works at the time when such works lay within the public domain.
- (26) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives, as set out in Part B of Annex I,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Duration of authors' rights

1. The rights of an author of a literary or artistic work within the meaning of Article 2 of the Berne Convention shall run for the life of the author and for 70 years after his death, irrespective of the date when the work is lawfully made available to the public.

2. In the case of a work of joint authorship, the term referred to in paragraph 1 shall be calculated from the death of the last surviving author.

3. In the case of anonymous or pseudonymous works, the term of protection shall run for 70 years after the work is lawfully made available to the public. However, when the pseudonym adopted by the author leaves no doubt as to his identity, or if the author discloses his identity during the period referred to in the first sentence, the term of protection applicable shall be that laid down in paragraph 1.

4. Where a Member State provides for particular provisions on copyright in respect of collective works or for a legal person to be designated as the rightholder, the term of protection shall be calculated according to the provisions of paragraph 3, except if the natural persons who have created the work are identified as such in the versions of the work which are made available to the public. This paragraph is without prejudice to the rights of identified authors whose identifiable contributions are included in such works, to which contributions paragraph 1 or 2 shall apply.

5. Where a work is published in volumes, parts, instalments, issues or episodes and the term of protection runs from the time when the work was lawfully made available to the public, the term of protection shall run for each such item separately.

6. In the case of works for which the term of protection is not calculated from the death of the author or authors and which have not been lawfully made available to the public within 70 years from their creation, the protection shall terminate.

Article 2

Cinematographic or audiovisual works

1. The principal director of a cinematographic or audiovisual work shall be considered as its author or one of its authors. Member States shall be free to designate other co-authors.

2. The term of protection of cinematographic or audiovisual works shall expire 70 years after the death of the last of the following persons to survive, whether or not these persons are designated as co-authors: the principal director, the author of the screenplay, the author of the dialogue and the composer of music specifically created for use in the cinematographic or audiovisual work.

Article 3

Duration of related rights

1. The rights of performers shall expire 50 years after the date of the performance. However, if a fixation of the performance is lawfully published or lawfully communicated to the public within this period, the rights shall expire 50 years from the date of the first such publication or the first such communication to the public, whichever is the earlier.

2. The rights of producers of phonograms shall expire 50 years after the fixation is made. However, if the phonogram has been lawfully published within this period, the said rights shall expire 50 years from the date of the first lawful publication. If no lawful publication has taken place within the period mentioned in the first sentence, and if the phonogram has been lawfully communicated to the public within this period, the said rights shall expire 50 years from the date of the first lawful communication to the public.

However, this paragraph shall not have the effect of protecting anew the rights of producers of phonograms where, through the expiry of the term of protection granted them pursuant to Article 3(2) of Directive 93/98/EEC in its version before amendment by Directive 2001/29/EEC, they were no longer protected on 22 December 2002.

3. The rights of producers of the first fixation of a film shall expire 50 years after the fixation is made. However, if the film is lawfully published or lawfully communicated to the public during this period, the rights shall expire 50 years from the date of the first such publication or the first such communication to the public, whichever is the earlier. The term 'film' shall designate a cinematographic or audiovisual work or moving images, whether or not accompanied by sound.

4. The rights of broadcasting organisations shall expire 50 years after the first transmission of a broadcast, whether this broadcast is transmitted by wire or over the air, including by cable or satellite.

Article 4

Protection of previously unpublished works

Any person who, after the expiry of copyright protection, for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work, shall benefit from a protection equivalent to the economic rights of the author. The term of protection of such rights shall be 25 years from the time when the work was first lawfully published or lawfully communicated to the public.

Article 5

Critical and scientific publications

Member States may protect critical and scientific publications of works which have come into the public domain. The maximum term of protection of such rights shall be 30 years from the time when the publication was first lawfully published.

Article 6

Protection of photographs

Photographs which are original in the sense that they are the author's own intellectual creation shall be protected in accordance with Article 1. No other criteria shall be applied to determine their eligibility for protection. Member States may provide for the protection of other photographs.

*Article 7***Protection vis-à-vis third countries**

1. Where the country of origin of a work, within the meaning of the Berne Convention, is a third country, and the author of the work is not a Community national, the term of protection granted by the Member States shall expire on the date of expiry of the protection granted in the country of origin of the work, but may not exceed the term laid down in Article 1.

2. The terms of protection laid down in Article 3 shall also apply in the case of rightholders who are not Community nationals, provided Member States grant them protection. However, without prejudice to the international obligations of the Member States, the term of protection granted by Member States shall expire no later than the date of expiry of the protection granted in the country of which the rightholder is a national and may not exceed the term laid down in Article 3.

3. Member States which, on 29 October 1993, in particular pursuant to their international obligations, granted a longer term of protection than that which would result from the provisions of paragraphs 1 and 2 may maintain this protection until the conclusion of international agreements on the term of protection of copyright or related rights.

*Article 8***Calculation of terms**

The terms laid down in this Directive shall be calculated from the first day of January of the year following the event which gives rise to them.

*Article 9***Moral rights**

This Directive shall be without prejudice to the provisions of the Member States regulating moral rights.

*Article 10***Application in time**

1. Where a term of protection which is longer than the corresponding term provided for by this Directive was already running in a Member State on 1 July 1995, this Directive shall not have the effect of shortening that term of protection in that Member State.

2. The terms of protection provided for in this Directive shall apply to all works and subject matter which were protected in at least one Member State on the date referred to in paragraph 1, pursuant to national provisions on copyright or related rights, or which meet the criteria for protection under [Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property] ⁽¹⁾.

3. This Directive shall be without prejudice to any acts of exploitation performed before the date referred to in paragraph 1. Member States shall adopt the necessary provisions to protect in particular acquired rights of third parties.

4. Member States need not apply the provisions of Article 2(1) to cinematographic or audiovisual works created before 1 July 1994.

*Article 11***Notification and communication**

1. Member States shall immediately notify the Commission of any governmental plan to grant new related rights, including the basic reasons for their introduction and the term of protection envisaged.

2. Member States shall communicate to the Commission the texts of the provisions of internal law which they adopt in the field governed by this Directive.

*Article 12***Repeal**

Directive 93/98/EEC is hereby repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law, as set out in Part B of Annex I, of the Directives, and their application.

References made to the repealed Directive shall be construed as being made to this Directive and should be read in accordance with the correlation table in Annex II.

*Article 13***Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 346, 27.11.1992, p. 61. Directive as last amended by Directive 2001/29/EC.

Article 14

Done at Strasbourg, the 12 December 2006.

Addressees

For the European Parliament

For the Council

The President

The President

This Directive is addressed to the Member States.

J. BORRELL FONTELLES

M. PEKKARINEN

ANNEX I

PART A

Repealed Directive with its amendment

Council Directive 93/98/EEC
(OJ L 290, 24.11.1993, p. 9)

Directive 2001/29/EC of the European Parliament and of the Council
(OJ L 167, 22.6.2001, p. 10)

Article 11(2) only

PART B

List of time-limits for transposition into national law and application

(referred to in Article 12)

Directive	Time-limit for transposition	Date of application
93/98/EEC	1 July 1995 (Articles 1 to 11)	19 November 1993 (Article 12) 1 July 1997 at the latest as regards Article 2(1) (Article 10(5))
2001/29/EC	22 December 2002	

ANNEX II

Correlation Table

Directive 93/98/EEC	This Directive
Articles 1 to 9	Articles 1 to 9
Article 10(1) to (4)	Article 10(1) to (4)
Article 10(5)	—
Article 11	—
Article 12	Article 11(1)
Article 13(1), first subparagraph	—
Article 13(1), second subparagraph	—
Article 13(1), third subparagraph	Article 11(2)
Article 13(2)	—
—	Article 12
—	Article 13
Article 14	Article 14
—	Annex I
—	Annex II

DIRECTIVE 2006/118/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 12 December 2006

on the protection of groundwater against pollution and deterioration

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the Opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾, in the light of the joint text approved by the Conciliation Committee on 28 November 2006,

Whereas:

- (1) Groundwater is a valuable natural resource and as such should be protected from deterioration and chemical pollution. This is particularly important for groundwater-dependent ecosystems and for the use of groundwater in water supply for human consumption.
- (2) Groundwater is the most sensitive and the largest body of freshwater in the European Union and, in particular, also a main source of public drinking water supplies in many regions.
- (3) Groundwater in bodies of water used for the abstraction of drinking water or intended for such future use must be protected in such a way that deterioration in the quality of such bodies of water is avoided in order to reduce the level of purification treatment required in the production of drinking water, in accordance with Article 7(2) and (3) of 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 ⁽⁴⁾.
- (4) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme ⁽⁵⁾ includes the objective to achieve water quality levels that do not give rise to significant impacts on, and risks to, human health and the environment.

⁽¹⁾ OJ C 112, 30.4.2004, p. 40.

⁽²⁾ OJ C 109, 30.4.2004, p. 29.

⁽³⁾ Opinion of the European Parliament of 28 April 2005 (OJ C 45 E, 23.2.2006, p. 15), Council Common Position of 23 January 2006 (OJ C 126 E, 30.5.2006, p. 1) and Position of the European Parliament of 13 June 2006 (not yet published in the Official Journal). European Parliament Legislative Resolution of 12 December 2006 (not yet published in the Official Journal) and Council Decision of 11 December 2006.

⁽⁴⁾ OJ L 327, 22.12.2000, p. 1. Directive as amended by Decision No 2455/2001/EC (OJ L 331, 15.12.2001, p. 1).

⁽⁵⁾ OJ L 242, 10.9.2002, p. 1.

- (5) In order to protect the environment as a whole, and human health in particular, detrimental concentrations of harmful pollutants in groundwater must be avoided, prevented or reduced

- (6) Directive 2000/60/EC sets out general provisions for the protection and conservation of groundwater. As provided for in Article 17 of that Directive, measures to prevent and control groundwater pollution should be adopted, including criteria for assessing good groundwater chemical status and criteria for the identification of significant and sustained upward trends and for the definition of starting points for trend reversals.

- (7) Having regard to the need to achieve consistent levels of protection for groundwater, quality standards and threshold values should be established, and methodologies based on a common approach developed, in order to provide criteria for the assessment of the chemical status of bodies of groundwater.

- (8) Quality standards for nitrates, plant protection products and biocides should be set as Community criteria for the assessment of the chemical status of bodies of groundwater, and consistency should be ensured with Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources ⁽⁶⁾, Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽⁷⁾, and Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market ⁽⁸⁾, respectively.

- (9) The protection of groundwater may in some areas require a change in farming or forestry practices, which could entail a loss of income. The Common Agricultural Policy provides for funding mechanisms to implement measures to comply with Community standards, namely through Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽⁹⁾.

⁽⁶⁾ OJ L 375, 31.12.1991, p. 1. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽⁷⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2006/85/EC (OJ L 293, 24.10.2006, p. 3).

⁽⁸⁾ OJ L 123, 24.4.1998, p. 1. Directive as last amended by Commission Directive 2006/50/EC (OJ L 142, 30.5.2006, p. 6).

⁽⁹⁾ OJ L 277, 21.10.2005, p. 1. Regulation as amended by Regulation (EC) No 1463/2006 (OJ L 277, 9.10.2006, p. 1).

With regard to groundwater protection measures, it will be the Member States' responsibility to choose their priorities and projects.

- (10) Groundwater chemical status provisions do not apply to high naturally-occurring levels of substances or ions or their indicators, contained either in a body of groundwater or in associated bodies of surface water, due to specific hydro-geological conditions, which are not covered by the definition of pollution. Equally, they do not apply to temporary, spatially-limited changes in flow direction and chemical composition, which are not regarded as intrusions.
- (11) Criteria should be established for the identification of any significant and sustained upward trends in pollutant concentrations and for the definition of the starting point for trend reversal, taking into account the likelihood of adverse effects on associated aquatic ecosystems or dependent terrestrial ecosystems.
- (12) Member States should, where possible, use statistical procedures, provided they comply with international standards and contribute to the comparability of results of monitoring between Member States over long periods.
- (13) In accordance with the third indent of Article 22(2) of Directive 2000/60/EC, Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution by certain dangerous substances⁽¹⁾ is to be repealed with effect from 22 December 2013. It is necessary to ensure the continuity of the protection provided by Directive 80/68/EEC with regard to measures aimed at preventing or limiting both direct and indirect inputs of pollutants into groundwater.
- (14) It is necessary to distinguish between hazardous substances, inputs of which should be prevented, and other pollutants, inputs of which should be limited. Annex VIII to Directive 2000/60/EC, listing the main pollutants relevant for the water environment, should be used to identify hazardous and non-hazardous substances which present an existing or potential risk of pollution.
- (15) Measures to prevent or limit inputs of pollutants into bodies of groundwater used for or intended for future use for the abstraction of water intended for human consumption, as referred to in Article 7(1) of Directive 2000/60/EC, should, in accordance with Article 7(2) of that Directive, include such measures as are necessary to ensure that under the water treatment regime applied, and in accordance with Community legislation, the resulting water will meet the requirements of Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption⁽²⁾. Those measures may also include, in accordance with Article 7(3) of Directive 2000/60/EC, the establishment by Member States of safeguard zones of such size as the competent national body deems necessary to protect drinking water supplies. Such safeguard zones may cover the whole territory of a Member State.
- (16) In order to ensure consistent protection of groundwater, Member States sharing bodies of groundwater should coordinate their activities in respect of monitoring, the setting of threshold values, and the identification of relevant hazardous substances.
- (17) Reliable and comparable methods for groundwater monitoring are an important tool for assessment of groundwater quality and also for choosing the most appropriate measures. Articles 8(3) and 20 of Directive 2000/60/EC provide for the adoption of standardised methods for analysis and monitoring of water status and, where necessary, of guidelines on implementation including monitoring.
- (18) In certain circumstances, Member States should be authorised to grant exemptions from measures to prevent or limit the input of pollutants into groundwater. Any exemptions should be based on transparent criteria and be detailed in the river basin management plans.
- (19) The impact on the level of environmental protection and on the functioning of the internal market of different groundwater threshold values to be defined by the Member States should be analysed.
- (20) Research should be conducted in order to provide better criteria for ensuring groundwater ecosystem quality and protection. Where necessary, the findings obtained should be taken into account when implementing or revising this Directive. Such research, as well as dissemination of knowledge, experience and research findings, needs to be encouraged and funded.
- (21) It is necessary to provide for transitional measures to apply during the period between the date of implementation of this Directive and the date from which Directive 80/68/EEC is repealed.
- (22) Directive 2000/60/EC sets out the requirement of controls including a requirement for prior authorisation of artificial recharge or augmentation of bodies of groundwater, provided that the use of the source does not compromise the achievement of the environmental objectives established for the source or the recharged or augmented body of groundwater.

⁽¹⁾ OJ L 20, 26.1.1980, p. 43. Directive as amended by Directive 91/692/EEC (OJ L 377, 31.12.1991, p. 48).

⁽²⁾ OJ L 330, 5.12.1998, p. 32. Directive as amended by Regulation (EC) No 1882/2003.

(23) Directive 2000/60/EC includes in Article 11(2) and Part B of Annex VI on the programme of measures a non-exclusive list of supplementary measures which Member States may choose to adopt as part of the programme of measures, *inter alia*:

- legislative instruments,
- administrative instruments, and
- negotiated agreements for the protection of the environment.

(24) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.

(25) In particular, it is necessary to follow the regulatory procedure with scrutiny as regards measures of general scope designed to amend non-essential elements of this Directive, *inter alia* by deleting some of those elements or by supplementing this Directive by adding new non-essential elements to it,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Purpose

1. This Directive establishes specific measures as provided for in Article 17(1) and (2) of Directive 2000/60/EC in order to prevent and control groundwater pollution. These measures include in particular:

- (a) criteria for the assessment of good groundwater chemical status; and
- (b) criteria for the identification and reversal of significant and sustained upward trends and for the definition of starting points for trend reversals.

2. This Directive also complements the provisions preventing or limiting inputs of pollutants into groundwater already contained in Directive 2000/60/EC, and aims to prevent the deterioration of the status of all bodies of groundwater.

Article 2

Definitions

For the purposes of this Directive, the following definitions shall apply in addition to those laid down in Article 2 of Directive 2000/60/EC:

- 1) 'groundwater quality standard' means an environmental quality standard expressed as the concentration of a particular pollutant, group of pollutants or indicator of

pollution in groundwater, which should not be exceeded in order to protect human health and the environment;

- 2) 'threshold value' means a groundwater quality standard set by Member States in accordance with Article 3;
- 3) 'significant and sustained upward trend' means any statistically and environmentally significant increase of concentration of a pollutant, group of pollutants, or indicator of pollution in groundwater for which trend reversal is identified as being necessary in accordance with Article 5;
- 4) 'input of pollutants into groundwater' means the direct or indirect introduction of pollutants into groundwater as a result of human activity;
- 5) 'background level' means the concentration of a substance or the value of an indicator in a body of groundwater corresponding to no, or only very minor, anthropogenic alterations to undisturbed conditions;
- 6) 'baseline level' means the average value measured at least during the reference years 2007 and 2008 on the basis of monitoring programmes implemented under Article 8 of Directive 2000/60/EC or, in the case of substances identified after these reference years, during the first period for which a representative period of monitoring data is available.

Article 3

Criteria for assessing groundwater chemical status

1. For the purposes of the assessment of the chemical status of a body or a group of bodies of groundwater pursuant to Section 2.3 of Annex V to Directive 2000/60/EC, Member States shall use the following criteria:

- (a) groundwater quality standards as referred to in Annex I;
- (b) threshold values to be established by Member States in accordance with the procedure set out in Part A of Annex II for the pollutants, groups of pollutants and indicators of pollution which, within the territory of a Member State, have been identified as contributing to the characterisation of bodies or groups of bodies of groundwater as being at risk, taking into account at least the list contained in Part B of Annex II.

The threshold values applicable to good chemical status shall be based on the protection of the body of groundwater in accordance with Part A, points 1, 2 and 3 of Annex II, having particular regard to its impact on, and interrelationship with, associated surface waters and directly dependent terrestrial ecosystems and wetlands and shall *inter alia* take into account human toxicology and ecotoxicology knowledge.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

2. Threshold values can be established at the national level, at the level of the river basin district or the part of the international river basin district falling within the territory of a Member State, or at the level of a body or a group of bodies of groundwater.

3. Member States shall ensure that, for bodies of groundwater shared by two or more Member States and for bodies of groundwater within which groundwater flows across a Member State's boundary, the establishment of threshold values is subject to coordination between the Member States concerned, in accordance with Article 3(4) of Directive 2000/60/EC.

4. Where a body or a group of bodies of groundwater extends beyond the territory of the Community, the Member State(s) concerned shall endeavour to establish threshold values in coordination with the non-Member State(s) concerned, in accordance with Article 3(5) of Directive 2000/60/EC.

5. Member States shall establish threshold values pursuant to paragraph 1(b) for the first time by 22 December 2008.

All threshold values established shall be published in the river basin management plans to be submitted in accordance with Article 13 of Directive 2000/60/EC, and including a summary of the information set out in Part C of Annex II to this Directive.

6. Member States shall amend the list of threshold values whenever new information on pollutants, groups of pollutants, or indicators of pollution indicates that a threshold value should be set for an additional substance, that an existing threshold value should be amended, or that a threshold value previously removed from the list should be re-inserted, in order to protect human health and the environment.

Threshold values can be removed from the list when the body of groundwater concerned is no longer at risk from the corresponding pollutants, groups of pollutants, or indicators of pollution.

Any such changes to the list of threshold values shall be reported in the context of the periodic review of the river basin management plans.

7. The Commission shall publish a report by 22 December 2009 on the basis of the information provided by Member States in accordance with paragraph 5.

Article 4

Procedure for assessing groundwater chemical status

1. Member States shall use the procedure described in paragraph 2 to assess the chemical status of a body of groundwater. Where appropriate, Member States may group bodies of groundwater in accordance with Annex V to Directive 2000/60/EC when carrying out this procedure.

2. A body or a group of bodies of groundwater shall be considered to be of good chemical status when:

- (a) the relevant monitoring demonstrates that the conditions set out in Table 2.3.2 of Annex V to Directive 2000/60/EC are being met; or
- (b) the values for the groundwater quality standards listed in Annex I and the relevant threshold values established in accordance with Article 3 and Annex II are not exceeded at any monitoring point in that body or group of bodies of groundwater; or
- (c) the value for a groundwater quality standard or threshold value is exceeded at one or more monitoring points but an appropriate investigation in accordance with Annex III confirms that:
 - (i) on the basis of the assessment referred to in paragraph 3 of Annex III, the concentrations of pollutants exceeding the groundwater quality standards or threshold values are not considered to present a significant environmental risk, taking into account, where appropriate, the extent of the body of groundwater which is affected;
 - (ii) the other conditions for good groundwater chemical status set out in Table 2.3.2 in Annex V to Directive 2000/60/EC are being met, in accordance with paragraph 4 of Annex III to this Directive;
 - (iii) for bodies of groundwater identified in accordance with Article 7(1) of Directive 2000/60/EC, the requirements of Article 7(3) of that Directive are being met, in accordance with paragraph 4 of Annex III to this Directive;
 - (iv) the ability of the body of groundwater or of any of the bodies in the group of bodies of groundwater to support human uses has not been significantly impaired by pollution.

3. Choice of the groundwater monitoring sites has to satisfy the requirements of Section 2.4 of Annex V to Directive 2000/60/EC on being designed so as to provide a coherent and comprehensive overview of groundwater chemical status and to provide representative monitoring data.

4. Member States shall publish a summary of the assessment of groundwater chemical status in the river basin management plans in accordance with Article 13 of Directive 2000/60/EC.

This summary, established at the level of the river basin district or the part of the international river basin district falling within the territory of a Member State, shall also include an explanation as to the manner in which exceedances of groundwater quality standards or threshold values at individual monitoring points have been taken into account in the final assessment.

5. If a body of groundwater is classified as being of good chemical status in accordance with paragraph 2(c), Member

States, in accordance with Article 11 of Directive 2000/60/EC, shall take such measures as may be necessary to protect aquatic ecosystems, terrestrial ecosystems and human uses of groundwater dependent on the part of the body of groundwater represented by the monitoring point or points at which the value for a groundwater quality standard or the threshold value has been exceeded.

Article 5

Identification of significant and sustained upward trends and the definition of starting points for trend reversals

1. Member States shall identify any significant and sustained upward trend in concentrations of pollutants, groups of pollutants or indicators of pollution found in bodies or groups of bodies of groundwater identified as being at risk and define the starting point for reversing that trend, in accordance with Annex IV.

2. Member States shall, in accordance with Part B of Annex IV, reverse trends which present a significant risk of harm to the quality of aquatic ecosystems or terrestrial ecosystems, to human health, or to actual or potential legitimate uses of the water environment, through the programme of measures referred to in Article 11 of Directive 2000/60/EC, in order progressively to reduce pollution and prevent deterioration of groundwater.

3. Member States shall define the starting point for trend reversal as a percentage of the level of the groundwater quality standards set out in Annex I and of the threshold values established pursuant to Article 3, on the basis of the identified trend and the environmental risk associated therewith, in accordance with Part B, point 1 of Annex IV.

4. In the river basin management plans to be submitted in accordance with Article 13 of Directive 2000/60/EC, Member States shall summarise:

- (a) the way in which the trend assessment from individual monitoring points within a body or a group of bodies of groundwater has contributed to identifying, in accordance with Section 2.5 of Annex V to that Directive, that those bodies are subject to a significant and sustained upward trend in concentration of any pollutant or a reversal of that trend; and
- (b) the reasons for the starting points defined pursuant to paragraph 3.

5. Where necessary to assess the impact of existing plumes of pollution in bodies of groundwater that may threaten the achievement of the objectives in Article 4 of Directive 2000/60/EC, and in particular, those plumes resulting from point sources and contaminated land, Member States shall carry out additional trend assessments for identified pollutants in order to verify that plumes from contaminated sites do not expand, do not deteriorate the chemical status of the body or group of bodies of groundwater, and do not present a risk for human health and the environment. The results of these assessments shall be

summarised in the river basin management plans to be submitted in accordance with Article 13 of Directive 2000/60/EC.

Article 6

Measures to prevent or limit inputs of pollutants into groundwater

1. In order to achieve the objective of preventing or limiting inputs of pollutants into groundwater, established in accordance with Article 4(1)(b)(i) of Directive 2000/60/EC, Member States shall ensure that the programme of measures established in accordance with Article 11 of that Directive includes:

- (a) all measures necessary to prevent inputs into groundwater of any hazardous substances, without prejudice to paragraphs 2 and 3. In identifying such substances, Member States shall in particular take account of hazardous substances belonging to the families or groups of pollutants referred to in points 1 to 6 of Annex VIII to Directive 2000/60/EC, as well as of substances belonging to the families or groups of pollutants referred to in points 7 to 9 of that Annex, where these are considered to be hazardous;
- (b) for pollutants listed in Annex VIII to Directive 2000/60/EC which are not considered hazardous, and any other non-hazardous pollutants not listed in that Annex considered by Member States to present an existing or potential risk of pollution, all measures necessary to limit inputs into groundwater so as to ensure that such inputs do not cause deterioration or significant and sustained upward trends in the concentrations of pollutants in groundwater. Such measures shall take account, at least, of established best practice, including the Best Environmental Practice and Best Available Techniques specified in the relevant Community legislation.

For the purpose of establishing measures referred to in points (a) or (b), Member States may, as a first step, identify the circumstances under which the pollutants listed in Annex VIII to Directive 2000/60/EC, in particular essential metals and their compounds referred to in point 7 of that Annex, are to be considered hazardous or non-hazardous.

2. Inputs of pollutants from diffuse sources of pollution having an impact on the groundwater chemical status shall be taken into account whenever technically possible.

3. Without prejudice to any more stringent requirements in other Community legislation, Member States may exempt from the measures required by paragraph 1 inputs of pollutants that are:

- (a) the result of direct discharges authorised in accordance with Article 11(3)(j) of Directive 2000/60/EC;
- (b) considered by the competent authorities to be of a quantity and concentration so small as to obviate any present or

- future danger of deterioration in the quality of the receiving groundwater;
- (c) the consequences of accidents or exceptional circumstances of natural cause that could not reasonably have been foreseen, avoided or mitigated;
- (d) the result of artificial recharge or augmentation of bodies of groundwater authorised in accordance with Article 11(3)(f) of Directive 2000/60/EC;
- (e) in the view of the competent authorities incapable, for technical reasons, of being prevented or limited without using:
- (i) measures that would increase risks to human health or to the quality of the environment as a whole; or
- (ii) disproportionately costly measures to remove quantities of pollutants from, or otherwise control their percolation in, contaminated ground or subsoil; or
- (f) the result of interventions in surface waters for the purposes, amongst others, of mitigating the effects of floods and droughts, and for the management of waters and waterways, including at international level. Such activities, including cutting, dredging, relocation and deposition of sediments in surface water, shall be conducted in accordance with general binding rules, and, where applicable, with permits and authorisations issued on the basis of such rules, developed by the Member States for that purpose, provided that such inputs do not compromise the achievement of the environmental objectives established for the water bodies concerned in accordance with Article 4(1)(b) of Directive 2000/60/EC.

The exemptions provided for in points (a) to (f) may be used only where the Member States' competent authorities have established that efficient monitoring of the bodies of groundwater concerned, in accordance with point 2.4.2 of Annex V to Directive 2000/60/EC, or other appropriate monitoring, is being carried out.

4. The competent authorities of the Member States shall keep an inventory of the exemptions referred to in paragraph 3 for the purpose of notification, upon request, to the Commission.

Article 7

Transitional arrangements

In the period between 16 January 2009 and 22 December 2013, any new authorisation procedure pursuant to Articles 4 and 5 of Directive 80/68/EEC shall take into account the requirements set out in Articles 3, 4 and 5 of this Directive.

Article 8

Technical adaptations

1. Parts A and C of Annex II and Annexes III and IV may be amended, in the light of scientific and technical progress, in

accordance with the regulatory procedure with scrutiny referred to in Article 9(2), taking into consideration the period for reviewing and updating river basin management plans, as referred to in Article 13(7) of Directive 2000/60/EC.

2. Part B of Annex II may be amended, in accordance with the regulatory procedure with scrutiny referred to in Article 9(2), in order to add new pollutants or indicators.

Article 9

Committee procedure

1. The Commission shall be assisted by a committee.

2. Where reference is made to this paragraph, Article 5a (1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 10

Review

Without prejudice to Article 8, the Commission shall review Annexes I and II to this Directive by 16 January 2013, and thereafter every six years. Based on the review, it shall, if appropriate, come forward with legislative proposals, in accordance with the procedure laid down in Article 251 of the Treaty, to amend Annexes I and/or II. In its review and in preparing any proposal, the Commission shall take account of all relevant information, which might include the results of the monitoring programmes implemented under Article 8 of Directive 2000/60/EC, of Community research programmes, and/or of recommendations from the Scientific Committee on Health and Environmental Risks, Member States, the European Parliament, the European Environment Agency, European business organisations and European environmental organisations.

Article 11

Evaluation

The report by the Commission provided for under Article 18(1) of Directive 2000/60/EC shall for groundwater include an evaluation of the functioning of this Directive in relation to other relevant environmental legislation, including consistency therewith.

Article 12

Implementation

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 16 January 2009. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 13

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 14

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 12 December 2006.

For the European Parliament

The President

J. BORRELL FONTELLES

For the Council

The President

M. PEKKARINEN

ANNEX I

GROUNDWATER QUALITY STANDARDS

1. For the purposes of assessing groundwater chemical status in accordance with Article 4, the following groundwater quality standards will be the quality standards referred to in Table 2.3.2 in Annex V to Directive 2000/60/EC and established in accordance with Article 17 of that Directive.

Pollutant	Quality standards
Nitrates	50 mg/l
Active substances in pesticides, including their relevant metabolites, degradation and reaction products ⁽¹⁾	0,1 µg/l 0,5 µg/l (total) ⁽²⁾

⁽¹⁾ 'Pesticides' means plant protection products and biocidal products as defined in Article 2 of Directive 91/414/EEC and in Article 2 of Directive 98/8/EC, respectively.

⁽²⁾ 'Total' means the sum of all individual pesticides detected and quantified in the monitoring procedure, including their relevant metabolites, degradation and reaction products.

2. The results of the application of the quality standards for pesticides in the manner specified for the purposes of this Directive will be without prejudice to the results of the risk assessment procedures required by Directive 91/414/EEC or Directive 98/8/EC.
3. Where, for a given body of groundwater, it is considered that the groundwater quality standards could result in failure to achieve the environmental objectives specified in Article 4 of Directive 2000/60/EC for associated bodies of surface water, or in any significant diminution of the ecological or chemical quality of such bodies, or in any significant damage to terrestrial ecosystems which depend directly on the body of groundwater, more stringent threshold values will be established in accordance with Article 3 and Annex II to this Directive. Programmes and measures required in relation to such a threshold value will also apply to activities falling within the scope of Directive 91/676/EEC.

ANNEX II

THRESHOLD VALUES FOR GROUNDWATER POLLUTANTS AND INDICATORS OF POLLUTION*Part A***Guidelines for the establishment of threshold values by Member States in accordance with Article 3**

Member States will establish threshold values for all pollutants and indicators of pollution which, pursuant to the characterisation performed in accordance with Article 5 of Directive 2000/60/EC, characterise bodies or groups of bodies of groundwater as being at risk of failing to achieve good groundwater chemical status.

Threshold values will be established in such a way that, should the monitoring results at a representative monitoring point exceed the thresholds, this will indicate a risk that one or more of the conditions for good groundwater chemical status referred to in Article 4(2)(c)(ii), (iii) and (iv) are not being met.

When establishing threshold values, Member States will consider the following guidelines:

- 1) the determination of threshold values should be based on:
 - (a) the extent of interactions between groundwater and associated aquatic and dependent terrestrial ecosystems;
 - (b) the interference with actual or potential legitimate uses or functions of groundwater;
 - (c) all pollutants which characterise bodies of groundwater as being at risk, taking into account the minimum list set out in part B;
 - (d) hydro-geological characteristics including information on background levels and water balance;
- 2) the determination of threshold values should also take account of the origins of the pollutants, their possible natural occurrence, their toxicology and dispersion tendency, their persistence and their bioaccumulation potential;
- 3) wherever elevated background levels of substances or ions or their indicators occur due to natural hydro-geological reasons, these background levels in the relevant body of groundwater shall be taken into account when establishing threshold values;
- 4) the determination of threshold values should be supported by a control mechanism for the data collected, based on an evaluation of data quality, analytical considerations, and background levels for substances which may occur both naturally and as a result of human activities.

*Part B***Minimum list of pollutants and their indicators for which Member States have to consider establishing threshold values in accordance with Article 3**

1. Substances or ions or indicators which may occur both naturally and/or as a result of human activities

Arsenic

Cadmium

Lead

Mercury

Ammonium

Chloride

Sulphate

2. Man-made synthetic substances

Trichloroethylene

Tetrachloroethylene

3. Parameters indicative of saline or other intrusions ⁽¹⁾

Conductivity

*Part C***Information to be provided by Member States with regard to the pollutants and their indicators for which threshold values have been established**

Member States will summarise, in the river basin management plans to be submitted in accordance with Article 13 of Directive 2000/60/EC, the way the procedure set out in Part A of this Annex has been followed.

In particular, Member States will provide, where feasible:

- (a) information on the number of bodies or groups of bodies of groundwater characterised as being at risk and on the pollutants and indicators of pollution which contribute to this classification, including the observed concentrations/values;
- (b) information on each of the bodies of groundwater characterised as being at risk, in particular the size of the bodies, the relationship between the bodies of groundwater and the associated surface waters and directly dependent terrestrial ecosystems, and, in the case of naturally-occurring substances, the natural background levels in the bodies of groundwater;
- (c) the threshold values, whether they apply at the national level, at the level of the river basin district or the part of the international river basin district falling within the territory of the Member State, or at the level of a body or a group of bodies of groundwater;
- (d) the relationship between the threshold values and:
 - (i) in the case of naturally-occurring substances, the observed background levels,
 - (ii) the environmental quality objectives and other standards for water protection that exist at national, Community or international level, and
 - (iii) any relevant information concerning the toxicology, eco-toxicology, persistence, bioaccumulation potential, and dispersion tendency of the pollutants.

⁽¹⁾ With regard to saline concentrations resulting from human activities, Member States may decide to establish threshold values either for sulphate and chloride or for conductivity.

ANNEX III

ASSESSMENT OF GROUNDWATER CHEMICAL STATUS

1. The assessment procedure for determining the chemical status of a body or a group of bodies of groundwater will be carried out in relation to all bodies or groups of bodies of groundwater characterised as being at risk and in relation to each of the pollutants which contribute to the body or group of bodies of groundwater being so characterised.
 2. In undertaking any investigations referred to in Article 4(2)(c), Member States will take into account:
 - (a) the information collected as part of the characterisation to be carried out in accordance with Article 5 of Directive 2000/60/EC and with Sections 2.1, 2.2 and 2.3 of Annex II thereto;
 - (b) the results of the groundwater monitoring network obtained in accordance with Section 2.4 of Annex V to Directive 2000/60/EC; and
 - (c) any other relevant information including a comparison of the annual arithmetic mean concentration of the relevant pollutants at a monitoring point with the groundwater quality standards set out in Annex I and the threshold values set by Member States in accordance with Article 3 and Annex II.
 3. For the purposes of investigating whether the conditions for good groundwater chemical status referred to in Article 4 (2)(c)(i) and (iv) are met, Member States will, where relevant and necessary, and on the basis of appropriate aggregations of the monitoring results, supported where necessary by concentration estimations based on a conceptual model of the body or group of bodies of groundwater, estimate the extent of the body of groundwater having an annual arithmetic mean concentration of a pollutant higher than a groundwater quality standard or a threshold value.
 4. For the purposes of investigating whether the conditions for good groundwater chemical status referred to in Article 4 (2)(c)(ii) and (iii) are met, Member States will, where relevant and necessary, and on the basis of relevant monitoring results and of a suitable conceptual model of the body of groundwater, assess:
 - (a) the impact of the pollutants in the body of groundwater;
 - (b) the amounts and the concentrations of the pollutants being, or likely to be, transferred from the body of groundwater to the associated surface waters or directly dependent terrestrial ecosystems;
 - (c) the likely impact of the amounts and concentrations of the pollutants transferred to the associated surface waters and directly dependent terrestrial ecosystems;
 - (d) the extent of any saline or other intrusions into the body of groundwater; and
 - (e) the risk from pollutants in the body of groundwater to the quality of water abstracted, or intended to be abstracted, from the body of groundwater for human consumption.
 5. Member States will present the groundwater chemical status of a body or a group of bodies of groundwater on maps in accordance with Sections 2.4.5 and 2.5 of Annex V to Directive 2000/60/EC. In addition, Member States will indicate on these maps all monitoring points where groundwater quality standards and/or threshold values are exceeded, where relevant and feasible.
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ANNEX IV

IDENTIFICATION AND REVERSAL OF SIGNIFICANT AND SUSTAINED UPWARD TRENDS*Part A***Identification of significant and sustained upward trends**

Member States will identify significant and sustained upward trends in all bodies or groups of bodies of groundwater that are characterised as being at risk in accordance with Annex II to Directive 2000/60/EC, taking into account the following requirements:

- 1) in accordance with Section 2.4 of Annex V to Directive 2000/60/EC, the monitoring programme will be so designed as to detect significant and sustained upward trends in concentrations of the pollutants identified pursuant to Article 3 of this Directive;
- 2) the procedure for the identification of significant and sustained upward trends will be based on the following elements:
 - (a) monitoring frequencies and monitoring locations will be selected such as are sufficient to:
 - (i) provide the information necessary to ensure that such upward trends can be distinguished from natural variation with an adequate level of confidence and precision;
 - (ii) enable such upward trends to be identified in sufficient time to allow measures to be implemented in order to prevent, or at least mitigate as far as practicable, environmentally significant detrimental changes in groundwater quality. This identification will be carried out for the first time by 2009, if possible, and will take into account existing data, in the context of the report on trend identification within the first river basin management plan referred to in Article 13 of Directive 2000/60/EC, and at least every six years thereafter;
 - (iii) take into account the physical and chemical temporal characteristics of the body of groundwater, including groundwater flow conditions and recharge rates and percolation time through soil or subsoil;
 - (b) the methods of monitoring and analysis used will conform to international quality control principles, including, if relevant, CEN or national standardised methods, to ensure equivalent scientific quality and comparability of the data provided;
 - (c) the assessment will be based on a statistical method, such as regression analysis, for trend analysis in time series of individual monitoring points;
 - (d) in order to avoid bias in trend identification, all measurements below the quantification limit will be set to half of the value of the highest quantification limit occurring in time series, except for total pesticides;
- 3) the identification of significant and sustained upward trends in the concentrations of substances which occur both naturally and as a result of human activities will consider the baseline levels and, where such data are available, the data collected before the start of the monitoring programme in order to report on trend identification within the first river basin management plan referred to in Article 13 of Directive 2000/60/EC.

*Part B***Starting points for trend reversals**

Member States will reverse identified significant and sustained upward trends, in accordance with Article 5, taking into account the following requirements:

- 1) the starting point for implementing measures to reverse significant and sustained upward trends will be when the concentration of the pollutant reaches 75 % of the parametric values of the groundwater quality standards set out in Annex I and of the threshold values established pursuant to Article 3, unless:
 - (a) an earlier starting point is required to enable trend reversal measures to prevent most cost-effectively, or at least mitigate as far as possible, any environmentally significant detrimental changes in groundwater quality;

- (b) a different starting point is justified where the detection limit does not allow for establishing the presence of a trend at 75 % of the parametric values; or
- (c) the rate of increase and the reversibility of the trend are such that a later starting point for trend reversal measures would still enable such measures to prevent most cost-effectively, or at least mitigate as far as possible, any environmentally significant detrimental changes in groundwater quality. Such later starting point may not lead to any delay in achieving the deadline for the environmental objectives.

For activities falling within the scope of Directive 91/676/EEC, the starting point for implementing measures to reverse significant and sustained upward trends will be established in accordance with that Directive and with Directive 2000/60/EC and, in particular, adhering to environmental objectives for water protection as set out in Article 4 of Directive 2000/60/EC;

- 2) once a starting point has been established for a body of groundwater characterised as being at risk in accordance with Section 2.4.4 of Annex V to Directive 2000/60/EC and pursuant to point 1 above, it will not be changed during the six-year cycle of the river basin management plan required in accordance with Article 13 of Directive 2000/60/EC;
 - 3) trend reversals will be demonstrated, taking into account relevant monitoring provisions contained in Part A, point 2.
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DIRECTIVE 2006/122/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 12 December 2006

amending for the 30th time Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (perfluorooctane sulfonates)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) An OECD (Organisation for Economic Cooperation and Development) hazard assessment has been done on the basis of information that was available by July 2002. This assessment concluded that perfluorooctane sulfonates (hereinafter 'PFOS') are persistent, bioaccumulative and toxic to mammalian species and, therefore, indicate cause for concern.
- (2) The risks posed to health and environment by PFOS have been assessed in accordance with the principles of Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances ⁽³⁾. The risk assessment identified a need to reduce the risks to health and the environment.
- (3) The Scientific Committee on Health and Environmental Risks (hereinafter 'SCHER') has been consulted. SCHER concluded that PFOS fulfil the criteria for classification as very persistent, very bioaccumulative and toxic. PFOS also have a potential for long range environmental transport and have the potential to produce adverse effects and therefore fulfil the criteria for being considered as persistent organic pollutants (POPs) under the Stockholm Convention ⁽⁴⁾. SCHER identified a need for further scientific risk assessment of PFOS but it also agreed that risk reduction measures might be necessary to avoid the re-occurrence of former uses. According to SCHER, on-going critical uses in the aviation industry, the semiconductor industry and the photographic industry do not appear to pose a relevant risk

to the environment or human health, if releases into the environment and workplace exposure are minimised. With regard to fire-fighting foams, SCHER agrees that health and environmental risks of substitutes should be assessed before a final decision can be taken. SCHER also agrees with restricting the use of PFOS in the plating industry, if there are no other measures available that could be applied to reduce the emissions during metal plating to a significantly lower level.

- (4) In order to protect health and the environment, it therefore appears necessary that the placing on the market and the use of PFOS should be restricted. This Directive is intended to cover the major part of the exposure risks. Other minor uses of PFOS do not seem to pose a risk and they are therefore currently exempted. However, special attention should be given to plating processes using PFOS and therefore the releases from those processes need to be minimised by applying the best available techniques (hereinafter 'BAT') fully taking into account all relevant information contained in the BAT reference document on Surface Treatment of Metals and Plastics as developed for use under Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control ⁽⁵⁾ (IPPC Directive). In addition, Member States should establish inventories of those uses in order to acquire information about the actual quantities used and released.
- (5) The semi-finished products and articles containing PFOS should also be restricted in order to protect the environment. The restriction should cover all the products and articles to which PFOS are intentionally added, taking into account that PFOS may have been used only in some distinct parts or in coatings of certain products and articles, such as textiles. This Directive should only restrict new products and should not apply to products already in use or on the second hand market. However, existing stocks of fire-fighting foams containing PFOS should be identified and their use should be allowed to continue only for a limited time to prevent possible further emissions from the use of such products.

⁽¹⁾ OJ C 195, 18.8.2006, p. 10.

⁽²⁾ Opinion of the European Parliament of 25 October 2006 (not yet published in the Official Journal) and Council Decision of 11 December 2006.

⁽³⁾ OJ L 84, 5.4.1993, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽⁴⁾ Council Decision 2006/507/EC of 14 October 2004 concerning the conclusion, on behalf of the European Community, of the Stockholm Convention on Persistent Organic Pollutants (OJ L 209, 31.7.2006, p. 1).

⁽⁵⁾ OJ L 257, 10.10.1996, p. 26. Directive as last amended by Regulation (EC) No 166/2006 of the European Parliament and of the Council (OJ L 33, 4.2.2006, p. 1).

- (6) To ensure ultimately the phase-out of uses of PFOS the Commission should review each derogation under this Directive when new information on the uses and safer alternatives developed gives grounds for it. The derogation should only be allowed to continue for essential uses on the condition that safer substances or technologies, that are technically and economically feasible, do not exist and BAT are applied to minimise emissions of PFOS.
- (7) Perfluorooctanoic acid (PFOA) and its salts are suspected to have a similar risk profile to PFOS, and consequently there is a need to keep under review the ongoing risk assessment activities and the availability of safer alternatives and to define what kind of risk reduction measures, including restrictions on marketing and use, if appropriate, should be applied within the European Union.
- (8) Directive 76/769/EEC ⁽¹⁾ should be amended accordingly.
- (9) The objective of this Directive is to introduce harmonised provisions with regard to PFOS, thus preserving the internal market whilst ensuring a high level of protection of human health and the environment, as required by Article 95 of the Treaty.
- (10) This Directive is without prejudice to the Community legislation laying down minimum requirements for the protection of workers, such as Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work ⁽²⁾, and individual directives based thereon, in particular Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (codified version) ⁽³⁾ and Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) ⁽⁴⁾,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 76/769/EEC is hereby amended as set out in the Annex to this Directive.

Article 2

1. Member States shall adopt and publish, not later than 27 December 2007, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those measures and a table showing the correlation between those measures and this Directive.

They shall apply these measures from 27 June 2008.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Strasbourg, 12 December 2006.

For the European Parliament

The President

J. BORRELL FONTELLES

For the Council

The President

M. PEKKARINEN

⁽¹⁾ OJ L 262, 27.9.1976, p. 201. Directive as last amended by Directive 2005/90/EC of the European Parliament and of the Council (OJ L 33, 4.2.2006, p. 28).

⁽²⁾ OJ L 183, 29.6.1989, p. 1. Directive as amended by Regulation (EC) No 1882/2003.

⁽³⁾ OJ L 158, 30.4.2004, p. 50. Corrigendum in OJ L 229, 29.6.2004, p. 23.

⁽⁴⁾ OJ L 131, 5.5.1998, p. 11. Directive as amended by the 2003 Act of Accession.

ANNEX

The following point is added to Annex I to Directive 76/769/EEC:

<p>52. Perfluorooctane sulfonates (PFOS) $C_8F_{17}SO_2X$ (X = OH, Metal salt (O-M+), halide, amide, and other derivatives including polymers)</p>	<ol style="list-style-type: none"> (1) May not be placed on the market or used as a substance or constituent of preparations in a concentration equal to or higher than 0,005 % by mass. (2) May not be placed on the market in semi-finished products or articles, or parts thereof, if the concentration of PFOS is equal to or higher than 0,1 % by mass calculated with reference to the mass of structurally or microstructurally distinct parts that contain PFOS or, for textiles or other coated materials, if the amount of PFOS is equal to or higher than 1 $\mu\text{g}/\text{m}^2$ of the coated material. (3) By way of derogation, paragraphs 1 and 2 shall not apply to the following items, nor to substances and preparations needed to produce them: <ol style="list-style-type: none"> (a) photoresists or anti reflective coatings for photolithography processes, (b) photographic coatings applied to films, papers, or printing plates, (c) mist suppressants for non-decorative hard chromium (VI) plating and wetting agents for use in controlled electroplating systems where the amount of PFOS released into the environment is minimised, by fully applying relevant best available techniques developed within the framework of Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (*), (d) hydraulic fluids for aviation. (4) By way of derogation from paragraph 1, fire-fighting foams that have been placed on the market before 27 December 2006 can be used until 27 June 2011. (5) Paragraphs 1 and 2 shall apply without prejudice to Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents (**). (6) Not later than 27 December 2008 Member States shall establish and communicate to the Commission an inventory that covers: <ol style="list-style-type: none"> (a) processes that are subject to derogation in paragraph 3(c) and the amounts of PFOS used in and released from them, (b) existing stocks of fire-fighting foams containing PFOS. (7) As soon as new information on details of uses and safer alternative substances or technologies for the uses becomes available, the Commission shall review each of the derogations in paragraph 3(a) to (d) so that: <ol style="list-style-type: none"> (a) the uses of PFOS will be phased out as soon as the use of safer alternatives is technically and economically feasible, (b) a derogation can only be continued for essential uses for which safer alternatives do not exist and where the efforts undertaken to find safer alternatives have been reported on, (c) releases of PFOS into the environment have been minimised, by applying best available techniques. (8) The Commission shall keep under review the ongoing risk assessment activities and the availability of safer alternative substances or technologies related to the uses of perfluorooctanoic acid (PFOA) and related substances and propose all necessary measures to reduce identified risks, including restrictions on marketing and use, in particular when safer alternative substances or technologies, that are technically and economically feasible, are available.'
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(*) OJ L 257, 10.10.1996, p. 26. Directive as last amended by Regulation (EC) No 166/2006 of the European Parliament and of the Council (OJ L 33, 4.2.2006, p. 1).

(**) OJ L 104, 8.4.2004, p. 1. Regulation as amended by Commission Regulation (EC) No 907/2006 (OJ L 168, 21.6.2006, p. 5).