

COMMON POSITION (EC) No 25/2000

adopted by the Council on 30 March 2000

**with a view to adopting Directive 2000/.../EC of the European Parliament and of the Council of ...
on the assessment of the effects of certain plans and programmes on the environment**

(2000/C 137/02)

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⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Having regard to the opinion of the Committee of the Regions⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽⁴⁾,

Whereas:

(1) Article 174 of the Treaty provides that Community policy on the environment is to contribute to, *inter alia*, the preservation, protection and improvement of the quality of the environment, the protection of human health and the prudent and rational utilisation of natural resources and that it is to be based on the precautionary principle. Article 6 of the Treaty provides that environmental protection requirements are to be integrated into the definition of Community policies and activities, in particular with a view to promoting sustainable development.

(2) The Fifth Environment Action Programme: Towards Sustainability — A European Community programme of policy and action in relation to the environment and sustainable development⁽⁵⁾, supplemented by Decision No 2179/98/EC⁽⁶⁾ on its review, affirms the importance of assessing the likely environmental effects of plans and programmes.

(3) Environmental assessment is an important tool for integrating environmental considerations into the preparation and adoption of certain plans and programmes which are likely to have significant effects on the environment in the Member States, because it ensures that such effects of implementing plans and programmes are taken into account during their preparation and before their adoption.

(4) The adoption of environmental assessment procedures at the planning and programming level should benefit undertakings by providing a more consistent framework in which to operate by the inclusion of the relevant environmental information into decision-making. The inclusion of a wider set of factors in decision-making should contribute to more sustainable and effective solutions.

(5) The different environmental assessment systems operating within Member States should contain a set of common procedural requirements necessary to contribute to a high level of protection of the environment.

(6) The systems operating within the Community for environmental assessment of plans and programmes should ensure that there are adequate transboundary consultations where the implementation of a plan or a programme being prepared in one Member State is likely to have significant effects on the environment of another Member State.

(7) Action is therefore required at Community level to lay down a minimum environmental assessment framework, which would set out the broad principles of the environmental assessment system and leave the details to the Member States, having regard to the principle of subsidiarity. Action by the Community should not go beyond what is necessary to achieve the objectives set out in the Treaty.

(8) This Directive is of a procedural nature, and its requirements should either be integrated into existing procedures in Member States or incorporated in specifically established procedures. With a view to avoiding duplication of the assessment, Member States should take account, where appropriate, of the fact that assessments will be carried out at different levels of a hierarchy of plans and programmes.

⁽¹⁾ OJ C 129, 25.4.1997, p. 14, and OJ C 83, 25.3.1999, p. 13.

⁽²⁾ OJ C 287, 22.4.1997, p. 101.

⁽³⁾ OJ C 64, 27.2.1998, p. 63, and OJ C 374, 23.12.1999, p. 9.

⁽⁴⁾ Opinion of the European Parliament of 20 October 1998 (OJ C 341, 9.11.1998, p. 18), Council Common Position of 30 March 2000 and the Decision of the European Parliament of ... (not yet published in the Official Journal).

⁽⁵⁾ OJ C 138, 17.5.1993, p. 5.

⁽⁶⁾ OJ L 275, 10.10.1998, p. 1.

- (9) All plans and programmes which are prepared for a number of sectors and which set a framework for future development consent of projects listed in Annexes I and II to Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment⁽¹⁾, and all plans and programmes which have been determined to require assessment pursuant to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna⁽²⁾, are likely to have significant effects on the environment, and should as a rule be made subject to systematic environmental assessment. When they determine the use of small areas at local level or are minor modifications to the above plans or programmes, they should be assessed only where Member States determine that they are likely to have significant effects on the environment.
- (10) Other plans and programmes which set the framework for future development consent of projects may not have significant effects on the environment in all cases and should be assessed only where Member States determine that they are likely to have such effects.
- (11) When Member States make such determinations, they should take into account the relevant criteria set out in this Directive.
- (12) Some plans or programmes are not subject to this Directive because of their particular characteristics.
- (13) Where an assessment is required by this Directive, an environmental report should be prepared containing relevant information as set out in this Directive, identifying, describing and evaluating the likely significant environmental effects of implementing the plan or programme, and reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme; Member States should communicate to the Commission any measures they take concerning the quality of environmental reports.
- (14) In order to contribute to more transparent decision-making and with the aim of ensuring that the information supplied for the assessment is comprehensive and reliable, it is necessary to provide that authorities with relevant environmental responsibilities and the public are to be consulted during the assessment of plans or programmes, and that appropriate time-frames are set, allowing sufficient time for consultations, including the expression of opinion.
- (15) Where the implementation of a plan or programme prepared in one Member State is likely to have a significant effect on the environment of other Member States, provision should be made for the Member States concerned to enter into consultations and for the relevant authorities and the public to be informed and enabled to express their opinion.
- (16) The environmental report and the opinions expressed by the relevant authorities and the public, as well as the results of any transboundary consultation, should be taken into account during the preparation of the plan or programme and before its adoption or submission to the legislative procedure.
- (17) Member States should ensure that, when a plan or programme is adopted, the relevant authorities and the public are informed and relevant information is made available to them.
- (18) Where the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Community legislation, such as a Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds⁽³⁾, Directive 92/43/EEC (or Directive .../.../EC establishing a framework for Community action in the field of water policy)⁽⁴⁾, in order to avoid duplication of the assessment, Member States may provide for coordinated or joint procedures fulfilling the requirements of the relevant Community legislation.
- (19) A first report on the application and effectiveness of this Directive should be carried out by the Commission five years after its entry into force, and at seven-year intervals thereafter. With a view to further integrating environmental protection requirements, and taking into account the experience acquired, the first report should, if appropriate, be accompanied by proposals for amendment of this Directive, in particular as regards the possibility of extending its scope to other areas/sectors and other types of plans and programmes,

⁽¹⁾ OJ L 175, 5.7.1985, p. 40. Directive as amended by Directive 97/11/EC (OJ L 73, 14.3.1997, p. 5).

⁽²⁾ OJ L 206, 22.7.1992, p. 7. Directive as last amended by Directive 97/62/EC (OJ L 305, 8.11.1997, p. 42).

⁽³⁾ OJ L 103, 25.4.1979, p. 1. Directive as last amended by Directive 97/49/EC (OJ L 223, 13.8.1997, p. 9).

⁽⁴⁾ To be inserted if that Directive is adopted before this one.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objectives

The objective of this Directive is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.

Article 2

Definitions

For the purposes of this Directive:

- (a) 'plans and programmes' shall mean plans and programmes, as well as their modifications:
- which are subject to preparation and/or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by parliament or government, and
 - which are required by legislative, regulatory or administrative provisions;
- (b) 'environmental assessment' shall mean the preparation of an environmental report, the carrying out of consultations, the taking into account of the environmental report and the results of the consultations in decision-making and the provision of information on the decision in accordance with Articles 4 to 9;
- (c) 'environmental report' shall mean the part of the plan or plan or programme documentation containing the information required in Article 5 and Annex I;
- (d) 'the public' shall mean natural or legal persons, and their associations, organisations or groups.

Article 3

Scope

1. An environmental assessment, in accordance with Articles 4 to 9, shall be carried out for plans and programmes referred to in paragraphs 2 to 4 which are likely to have significant environmental effects.
2. Subject to paragraph 3, an environmental assessment shall be carried out for all plans and programmes,
 - (a) which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework

for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC, or

- (b) which, in view of the likely effect on sites, have been determined to require an assessment pursuant to Article 6 or 7 of Directive 92/43/EEC.

3. Plans and programmes referred to in paragraph 2 which determine the use of small areas at local level and minor modifications to plans and programmes referred to in paragraph 2 shall require an environmental assessment only where the Member States determine that they are likely to have significant environmental effects.

4. Member States shall determine whether plans and programmes, other than those referred to in paragraph 2, which set the framework for future development consent of projects, are likely to have significant environmental effects.

5. Member States shall determine whether plans or programmes referred to in paragraph 3 and 4 are likely to have significant environmental effects either through case-by-case examination or by specifying types of plans or programmes or by combining both approaches, and in all cases taking into account relevant criteria set out in Annex II.

6. In the case-by-case examination and in specifying types of plans and programmes in accordance with paragraph 5, the authorities referred to in Article 6(3) shall be consulted.

7. Member States shall ensure that their conclusions pursuant to paragraph 5 are made available to the public.

8. The following plans and programmes are not subject to this Directive:

- plans and programmes the sole purpose of which is to serve national defence or civil emergency,
- financial or budget plans and programmes,
- plans and programmes falling under the 2000 to 2006 programming period under Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds⁽¹⁾ or under the 2000 to 2006 and 2000 to 2007 programming periods under Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain regulations⁽²⁾.

⁽¹⁾ OJ L 161, 26.6.1999, p. 1.

⁽²⁾ OJ L 160, 26.6.1999, p. 80.

*Article 4***General obligations**

1. The environmental assessment referred to in Article 3 shall be carried out during the preparation of a plan or programme and before its adoption or submission to the legislative procedure.
2. The requirements of this Directive shall either be integrated into existing procedures in Member States for the adoption of plans and programmes or incorporated in procedures established to comply with this Directive.
3. Where plans and programmes form part of a hierarchy, Member States shall, with a view to avoiding duplication of the assessment, take into account the fact that the assessment will be carried out, in accordance with this Directive, at different levels of the hierarchy.

*Article 5***Environmental report**

1. Where an environmental assessment is required under Article 3(1), an environmental report shall be prepared in which the likely significant effects on the environment of implementing the plan or programme, and reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme, are identified, described and evaluated. The information to be given for this purpose is referred to in Annex I.
2. The environmental report prepared pursuant to paragraph 1 shall include the information that may reasonably be required taking into account current knowledge and methods of assessment, the contents and level of detail in the plan or programme, its stage in the decision-making process and the extent to which certain matters are more appropriately assessed at different levels in that process in order to avoid duplication of the assessment.
3. Relevant information available on environmental effects of the plans and programmes and obtained at other levels of decision-making or through other Community legislation may be used for providing the information referred to in Annex I.
4. The authorities referred to in Article 6(3) shall be consulted when deciding on the scope and level of detail of the information which must be included in the environmental report.

*Article 6***Consultations**

1. The draft plan or programme and the environmental report prepared in accordance with Article 5 shall be made available to the authorities referred to in paragraph 3 of this Article and the public.
2. The authorities referred to in paragraph 3 and the public referred to in paragraph 4 shall be given an early and effective opportunity within appropriate time-frames to express their opinion on the draft plan or programme and the accompanying environmental report before the adoption of the plan or programme or its submission to the legislative procedure.
3. Member States shall designate the authorities to be consulted which, by reason of their specific environmental responsibilities, are likely to be concerned by the environmental effects of implementing plans and programmes.
4. Member States shall identify the public for the purposes of paragraph 2, including relevant non-governmental organisations, such as those promoting environmental protection and other organisations concerned.
5. The detailed arrangements for the information and consultation of the authorities and the public shall be determined by the Member States.

*Article 7***Transboundary consultations**

1. Where a Member State considers that the implementation of a plan or programme being prepared in relation to its territory is likely to have significant effects on the environment in another Member State, or where a Member State likely to be significantly affected so requests, the Member State in whose territory the plan or programme is being prepared shall, before its adoption or submission to the legislative procedure, forward a copy of the draft plan or programme and the relevant environmental report to the other Member State.
2. Where a Member State is sent a copy of a draft plan or programme and an environmental report under paragraph 1, it shall indicate to the other Member State whether it wishes to enter into consultations before the adoption of the plan or programme or its submission to the legislative procedure and, if it so indicates, the Member States concerned shall enter into consultations concerning the likely transboundary environmental effects of implementing the plan or programme and the measures envisaged to reduce or eliminate such effects.

Where such consultations take place, the Member States concerned shall agree on detailed arrangements to ensure that the authorities referred to in Article 6(3) and the public referred to in Article 6(4) in the Member State likely to be significantly affected are informed and given an opportunity to forward their opinion within a reasonable time-frame.

3. Where Member States are required under this Article to enter into consultations, they shall agree, at the beginning of such consultations, on a reasonable time-frame for the duration of the consultations.

Article 8

Decision-making

The environmental report prepared pursuant to Article 5, the opinion expressed pursuant to Article 6 and the results of any transboundary consultations entered into pursuant to Article 7 shall be taken into account during the preparation of the plan or programme and before its adoption or submission to the legislative procedure.

Article 9

Information on the decision

1. Member States shall ensure that, when a plan or programme is adopted, the authorities referred to in Article 6(3), the public and any Member State consulted under Article 7 are informed and the following items are made available to those so informed:

- (a) the plan or programme as adopted, and
- (b) a statement summarising how environmental considerations have been integrated into the plan or programme and the environmental report prepared pursuant to Article 5, the opinions expressed pursuant to Article 6 and the results of consultations entered into pursuant to Article 7 have been taken into account in accordance with Article 8 and the reasons for choosing the plan or programme as adopted, in the light of the other reasonable alternatives dealt with.

2. The detailed arrangements concerning the information referred to in paragraph 1 shall be determined by the Member States.

Article 10

Relationship with other Community legislation

1. An environmental assessment carried out under this Directive shall be without prejudice to any requirements under Directive 85/337/EEC and to any other Community law requirements.

2. For plans and programmes for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Community legislation, Member States may provide for coordinated or joint procedures fulfilling the requirements of the relevant Community legislation in order, *inter alia*, to avoid duplication of assessment.

Article 11

Information, reporting and review

1. Member States and the Commission shall exchange information on the experience gained in applying this Directive.

2. Member States shall communicate to the Commission any measures they take concerning the quality of environmental reports.

3. Before ...(*) the Commission shall send a first report on the application and effectiveness of this Directive to the European Parliament and to the Council.

With a view further to integrating environmental protection requirements, in accordance with Article 6 of the Treaty, and taking into account the experience acquired in the application of this Directive in the Member States, such a report will be accompanied by proposals for amendment of this Directive, if appropriate. In particular, the Commission will consider the possibility of extending the scope of this Directive to other areas/sectors and other types of plans and programmes.

A new evaluation report shall follow at seven-year intervals.

4. The Commission shall report on the relationship between this Directive and Regulations (EC) No 1260/1999 and (EC) No 1257/1999 well ahead of the expiry of the programming periods provided for in those Regulations.

Article 12

Implementation of the Directive

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before ...(**). They shall forthwith inform the Commission thereof.

2. When Member States adopt the 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.

(*) Five years after the entry into force of this Directive.

(**) Three years after the entry into force of this Directive.

3. The obligation referred to in Article 4(1) shall apply only to the plans and programmes of which the first formal preparatory act is subsequent to the date referred to in paragraph 1.

4. Before ...(*), Member States shall communicate to the Commission, in addition to the measures referred to in paragraph 1, separate information on the types of plans and programmes which, in accordance with Article 3, would be subject to an environmental assessment pursuant to this Directive. The Commission shall make this information available to the Member States. The information will be updated on a regular basis.

Article 13

Entry into force

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

Article 14

Addressees

This Directive is addressed to the Member States.

Done at ...

For the European Parliament,

The President

For the Council,

The President

(*) Three years after the entry into force of this Directive.

ANNEX I

Information referred to in Article 5(1)

The information to be provided under Article 5(1), subject to Article 5(2) and (3), is the following:

- (a) an outline of the contents, main objectives of the plan or programme and relationship with other relevant plans and programmes;
- (b) the relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan or programme;
- (c) the environmental characteristics of areas likely to be significantly affected;
- (d) any existing environmental problems which are relevant to the plan or programme including, in particular, those relating to any areas of a particular environmental importance, such as areas designated pursuant to Directives 79/409/EEC and 92/43/EEC;
- (e) the environmental protection objectives, established at international, Community or Member State level, which are relevant to the plan or programme and the way those objectives and any environmental considerations have been taken into account during its preparation;
- (f) the likely significant effects on the environment ⁽¹⁾;
- (g) the measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan or programme;
- (h) an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information;
- (i) a description of measures envisaged for monitoring the implementation of the plan or programme;
- (j) a non-technical summary of the information provided under the above headings.

⁽¹⁾ These effects should include secondary, cumulative, synergistic, short-, medium- and long-term permanent and temporary, positive and negative effects.

ANNEX II

Criteria for determining the likely significance of effects referred to in Article 3(5)

1. The characteristics of plans and programmes, having regard, in particular, to
 - the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,
 - the degree to which the plan or programme influences other plans and programmes including those in a hierarchy,
 - the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development,
 - environmental problems relevant to the plan or programme,
 - the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).
 2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:
 - the probability, duration, frequency and reversibility of the effects,
 - the cumulative nature of the effects,
 - the transboundary nature of the effects,
 - the risks to human health or the environment (e.g. due to accidents),
 - the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),
 - the value and vulnerability of the area likely to be affected due to:
 - special natural characteristics or cultural heritage,
 - exceeded environmental quality standards or limit values,
 - intensive land-use,
 - the effects on areas or landscapes which have a recognised national, Community or international protection status.
-

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

1. On 3 April 1997, the Commission sent the Council a proposal for a Council Directive on the assessment of the effects of certain plans and programmes on the environment based on Article 130s(1) (presently Article 175(1)) of the Treaty⁽¹⁾.
2. The European Parliament delivered its opinion on 20 October 1998⁽²⁾. The Economic and Social Committee delivered its opinion on the proposal on 29 May 1997⁽³⁾, whereas the Committee of the Regions gave its opinion on 20 November 1997⁽⁴⁾.
3. Following these opinions, the Commission forwarded an amended proposal to the Council on 19 February 1999⁽⁵⁾. The Committee of the Regions gave its opinion on the amended proposal on 24 September 1999⁽⁶⁾.
4. On 30 March 2000, the Council adopted its common position in accordance with Article 251(2) of the Treaty (former Article 189b)).

II. OBJECTIVES

The objective of the Directive is to provide for an environmental assessment to be carried out and the results to be taken into account during the preparation and prior to the adoption of certain plans and programmes likely to have significant effects on the environment. It is meant as a complement to the environmental assessment of projects under the 'EIA' Directive⁽⁷⁾, which takes place at a later stage of the decision-making process.

III. ANALYSIS OF THE COMMON POSITION⁽⁸⁾

The Directive, as it was proposed by the Commission, appeared to raise considerable difficulties, due mainly to the widely different systems and procedures in force in Member States as regards planning and programming. In particular certain elements of the proposal, and chiefly its scope, appeared to require further definition in order to avoid giving rise to implementation problems.

The Council sought therefore to introduce as large a measure of legal certainty as possible, by defining more precisely the scope of the Directive and obligations for Member States. The obligation to carry out the assessment was notably linked to requirements existing in Community legislation, while Member States would have to evaluate the need for an assessment, on the basis of agreed criteria, where such explicit link does not exist. This approach, namely the distinction between obligatory assessment and assessment to be decided by Member States, is similar to that adopted for the EIA Directive.

⁽¹⁾ OJ C 129, 25.4.1997, p. 14.

⁽²⁾ OJ C 341, 9.11.1998, p. 18.

⁽³⁾ OJ C 287, 22.9.1997, p. 101.

⁽⁴⁾ OJ C 64, 27.2.1998, p. 63.

⁽⁵⁾ OJ C 83, 25.3.1999, p. 13.

⁽⁶⁾ OJ C 374, 23.12.1999, p. 9.

⁽⁷⁾ Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EC.

⁽⁸⁾ The numbering of the recitals, Articles and Annexes follows that retained in the common position.

The renewed emphasis on the concept of integration of environmental considerations in the definition and implementation of other activities, as well as the acknowledgement of the principles of the Aarhus Convention on access to information and public participation in decision-making were also inspirational elements for the more recent work by Council on the proposal.

As a consequence of the above revised approach, the text of the proposal underwent a rather extensive rewriting and restructuring.

A. AMENDED COMMISSION PROPOSAL

The Council followed, partly or in spirit, the European Parliament's amendments accepted by the Commission in its amended proposal, as well as elements of amendments proposed by the Parliament but not retained by the Commission (a fuller and exhaustive list of sectors to which the Directive would apply — cf. amendment 18, the explicit provision for information and consultation of authorities and the public in the Member State likely to be affected by a plan or programme prepared in another Member State — cf. amendment 28, and the introduction of a reference to monitoring requirements in the environmental statement — cf. amendment 33). The rewriting and restructuring of the text as earlier mentioned means that the amendments could rarely be reproduced literally, and may be found in different locations in the text than in the original proposal.

B. MAIN INNOVATIONS INTRODUCED BY THE COUNCIL

Preamble

The changes introduced in the preamble mirror those of the Articles.

Article 1 (Objectives)

The Council introduced the idea of integration of environmental considerations into the preparation and adoption of plans and programmes as an important objective, alongside the reference to sustainable development as requested by Parliament.

In line with the EIA model, the Council agreed to limit the scope to plans and programmes likely to have significant effects on the environment.

Article 2 (Definitions)

The Article was simplified to contain definitions only, in order to arrive at a clearer separation between definitions and scope than in the Commission proposal.

The definition of 'plans and programmes' was modified by clarifying that only plans and programmes were covered which are required by legislative, regulatory or administrative provisions and which are prepared and/or adopted by an authority or prepared by an authority for a legislative procedure, having regard to the Member States' different procedures and regulations.

The definition of 'competent authority' which appeared to have different meanings under different circumstances peculiar to Member States, was deleted.

'Environmental statement' was replaced by a more precise 'environmental report'.

Finally, a general definition of 'public' was introduced, inspired by that in the Aarhus Convention.

Article 3 (Scope)

This Article is completely new and reflects the modified approach decided by the Council. The Commission proposal amended following the Parliament's opinion already referred to plans and programmes setting the framework for future development consent, and the Council agrees to and builds on this approach. The Article states the principle that environmental assessment has to be carried out as a rule for certain plans and programmes which are likely to have in all cases significant environmental effects. These are identified as those which set the framework for future development consent of projects listed in Annexes I and II to the EIA Directive, for an exhaustive list of sectors, or which have an influence on protected areas pursuant to the 'Habitat' Directive.

For other plans and programmes which set the framework for future development consent of projects, Member States determine whether they are likely to have significant environmental effects, taking into account relevant criteria, set out in a new Annex II. This same procedure applies to plans and programmes determining the use of small areas at local level or to minor modifications of plans and programmes, as it was in principle already provided for in Article 4 (3) and (4) of the Commission proposal.

An obligation to consult concerned authorities is also provided for. A provision on public information was transferred from Article 4 in the Commission proposal. Certain plans and programmes of a particular nature (serving national defence or civil emergency, financial or budget plans and programmes) are exempted. So are plans and programmes falling under the programming period 2000 to 2006/2007 of the Structural Funds (cf. in this connection the implementation date set out in Article 12 as well as comments to Article 11).

Article 4 (General obligations)

This Article results from the fusion of Articles 3 and 4 in the Commission's proposal. A provision has been added to allow avoiding duplication of work where plans and programmes form part of a hierarchy and the assessment is carried out at different levels of the hierarchy.

Article 5 (Environmental report)

The Article was reformulated by retaining the principal requirements, including as regards the assessment of reasonable alternatives, while a detailed description of the content of the report, including additional elements, was set out in Annex I.

Article 6 (Consultations)

The Council sought to specify, in line with the Aarhus Convention, that the public to be consulted includes relevant non-governmental organisations, such as those promoting environmental protection and others.

Article 9 (Information on the decision)

In line with the change introduced in Article 5, this Article provides for information on the plan in relation to reasonable alternatives. A reference to the 'integration' element was also added.

Article 10 (Relationship with other Community legislation)

With a rationalising objective, the Council agreed that coordinated or joint procedures could be provided for when obligations regarding an assessment arose from different pieces of legislation.

Article 11 (Information, report and review)

The review clause was made more explicit, in particular, regarding the possibility to extend the scope of the Directive to other sectors and types of plans and programmes.

Furthermore, in order to dispel any ambiguity resulting from the exemption of plans and programmes related to the Regulations on Structural Funds for the period 2000 to 2006/2007, the Commission was invited to report on the relationship between this Directive and those Regulations in good time before the next programming period.

Article 12 (Implementation)

The Council agreed on a three-year period for the implementation of the Directive, given its procedurally complex nature.

Annex I (Information to be provided — the report)

This Annex has been made more concise and at the same time more complete.

Annex II (Criteria for determining the likely significance of the environmental effects)

This Annex is new, and is partly inspired by the corresponding Annex to the EIA Directive.
