

COMMON POSITION (EC) No 33/2006**adopted by the Council on 23 November 2006****with a view to adopting Directive 2006/.../EC of the European Parliament and of the Council of ...
on the assessment and management of flood risks**

(2006/C 311 E/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,

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) Floods have the potential to cause fatalities, displacement of people and damage to the environment, to severely compromise economic development and to undermine the economic activities of the Community.
- (2) Floods are natural phenomena which cannot be prevented. However, some human activities and climate change contribute to an increase in the likelihood and adverse impacts of flood events.
- (3) It is feasible and desirable to reduce the risk of adverse consequences, especially for human health and life, the environment, cultural heritage, economic activity and infrastructure associated with floods. However, measures to reduce these risks should, as far as possible, be coordinated throughout a river basin if they are to be effective.
- (4) 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 ⁽³⁾ requires river basin management plans to be developed for each river basin district in order to achieve good ecological and chemical status, and it will contribute to mitigating the effects of floods. However, reducing the risk of floods is not one of the principal objectives of that Directive, nor does it take into account future risks of flooding caused by climate change.

- (5) The Commission Communication of 12 July 2004 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Flood risk management — Flood prevention, protection and mitigation' sets out its analysis and approach to managing flood risks at Community level, and states that concerted and coordinated action at Community level would bring considerable added value and improve the overall level of flood protection.

- (6) Effective flood prevention and mitigation requires, in addition to coordination between Member States, cooperation with third countries. This is in line with Directive 2000/60/EC and international principles of flood risk management as developed notably under the United Nations Convention on the protection and use of transboundary water courses and international lakes, approved by Council Decision 95/308/EC ⁽⁴⁾, and any succeeding agreements on its application.

- (7) Council Decision 2001/792/EC, Euratom of 23 October 2001 establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions ⁽⁵⁾ mobilises support and assistance from Member States in the event of major emergencies, including floods. Civil protection can provide adequate response to affected populations and improve preparedness and resilience.

- (8) Under Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund ⁽⁶⁾ it is possible to grant rapid financial assistance in the event of a major disaster to help the people, natural zones, regions and countries concerned to return to conditions that are as normal as possible, but the Fund may only intervene for emergency operations, and not for the phases preceding an emergency.

- (9) Throughout the Community different types of floods occur, such as river floods, flash floods, urban floods and floods from the sea in coastal areas. The damage caused by flood events may also vary across the countries and regions of the Community. Hence, objectives regarding the management of flood risks should be determined by the Member States themselves and should be based on local and regional circumstances.

⁽¹⁾ Opinion of 17 May 2006 (not yet published in the Official Journal).

⁽²⁾ Opinion of the European Parliament of 13 June 2006 (not yet published in the Official Journal) and Council Decision of ... (not yet published in the Official Journal).

⁽³⁾ 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).

⁽⁴⁾ OJ L 186, 5.8.1995, p. 42.

⁽⁵⁾ OJ L 297, 15.11.2001, p. 7.

⁽⁶⁾ OJ L 311, 14.11.2002, p. 3.

- (10) Flood risks in certain areas within the Community could be considered not to be significant, for example in thinly populated or unpopulated areas or in areas with limited economic assets or ecological value. In each river basin district or unit of management the flood risks and need for further action should be assessed.
- (11) In order to have available an effective tool for information, as well as a valuable basis for priority setting and further technical, financial and political decisions regarding flood risk management it is necessary to provide for the establishing of flood hazard maps and flood risk maps showing the potential adverse consequences associated with different flood scenarios.
- (12) With a view to avoiding and reducing the negative impacts of floods in the area concerned it is appropriate to provide for flood risk management plans. The causes and consequences of flood events vary across the countries and regions of the Community. Flood risk management plans should therefore take into account the particular characteristics of the areas they cover and provide for tailored solutions according to the needs and priorities of those areas, whilst ensuring relevant coordination within river basin districts.
- (13) Flood risk management plans should focus on prevention, protection and preparedness. The elements of flood risk management plans should be periodically reviewed and if necessary updated, taking into account the likely effects of climate change on the occurrence of floods.
- (14) The solidarity principle is very important in the context of flood risk management. In the light of it Member States should be encouraged to seek a fair sharing of responsibilities, when measures are jointly decided for the common benefit, as regards flood risk management along water courses.
- (15) To prevent duplication of work, Member States should be entitled to use existing preliminary flood risk assessments, flood hazard and risk maps and flood risk management plans for the purposes of achieving the objectives and satisfying the requirements of this Directive.
- (16) Development of river basin management plans under Directive 2000/60/EC and of flood risk management plans under this Directive are elements of integrated river basin management. The two processes should therefore use the mutual potential for common synergies and benefits, having regard to the environmental objectives of Directive 2000/60/EC, ensuring efficiency and wise use of resources while recognising that the competent authorities and management units might be different under this Directive and Directive 2000/60/EC.
- (17) In cases of multi-purpose use of bodies of water for different forms of sustainable human activities (e.g. flood risk management, ecology, inland navigation or hydro-power) and the impacts of such use on the bodies of water, Directive 2000/60/EC provides for a clear and transparent process for addressing such uses and impacts, including possible exemptions from the objectives of 'good status' or of 'non-deterioration' in Article 4 thereof.
- (18) 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⁾.
- (19) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, it seeks to promote the integration into Community policies of a high level of environmental protection in accordance with the principle of sustainable development as laid down in Article 37 of the Charter of Fundamental Rights of the European Union.
- (20) Since the objective of this Directive, namely the establishment of a framework for measures to reduce the risks of flood damage, cannot be sufficiently achieved by the Member States and can by reason of scale and effects of actions 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 Directive does not go beyond what is necessary in order to achieve that objective.
- (21) In accordance with the principles of proportionality and subsidiarity and the Protocol on the application of the principles of subsidiarity and proportionality attached to the Treaty, and in view of existing capabilities of Member States, considerable flexibility should be left to the local and regional levels, in particular as regards organisation and responsibility of authorities.
- (22) In accordance with point 34 of the Interinstitutional Agreement on better law-making ⁽²⁾, Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public,

⁽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⁾ OJ C 321, 31.12.2003, p. 1.

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER II

CHAPTER I

PRELIMINARY FLOOD RISK ASSESSMENT

GENERAL PROVISIONS

Article 4

Article 1

The purpose of this Directive is to establish a framework for the assessment and management of flood risks, aiming at the reduction of the adverse consequences for human health, the environment, cultural heritage and economic activity associated with floods in the Community.

1. Member States shall, for each river basin district or unit of management referred to in Article 3(2)(b) or the portion of an international river basin district lying within their territory, undertake a preliminary flood risk assessment in accordance with paragraph 2 of this Article.

Article 2

For the purpose of this Directive, in addition to the definitions of 'river', 'river basin', 'sub-basin' and 'river basin district' as set out in Article 2 of Directive 2000/60/EC, the following definitions shall apply:

2. A preliminary flood risk assessment shall be undertaken to provide an assessment of potential risks based on available or readily derivable information, such as records. The assessment shall include at least the following:

- 1) 'flood' means the temporary covering by water of land not normally covered by water. This shall include floods from rivers, mountain torrents, Mediterranean ephemeral water courses, and floods from the sea in coastal areas, and may exclude floods from sewerage systems;
- 2) 'flood risk' means the combination of the probability of a flood event and of the potential adverse consequences for human health, the environment, cultural heritage and economic activity associated with a flood event.

(a) maps of the river basin district at the appropriate scale including the borders of the river basins, sub-basins and where appropriate coastal areas, showing topography and land use;

(b) a description of the floods which have occurred in the past and which had significant adverse impacts on human health, the environment, cultural heritage and economic activity and for which the likelihood of similar future events is still relevant, including their flood extent and conveyance routes and an assessment of the adverse impacts they have entailed;

Article 3

1. For the purposes of this Directive Member States shall make use of the arrangements made under Article 3(1), (2), (3), (5) and (6) of Directive 2000/60/EC.

(c) a description of the significant floods which have occurred in the past, where significant adverse consequences of similar future events might be envisaged;

2. However, for the implementation of this Directive, Member States may:

and, where appropriate, it shall include:

- (a) appoint competent authorities different from those identified pursuant to Article 3(2) of Directive 2000/60/EC;
- (b) identify certain coastal areas or individual river basins and assign them to a unit of management different from those assigned pursuant to Article 3(1) of Directive 2000/60/EC.

(d) an assessment of the potential adverse consequences of future floods for human health, the environment, cultural heritage and economic activity, taking into account as far as possible issues such as the topography, the position of watercourses and their general hydrological and geomorphological characteristics, the position of populated areas, areas of economic activity and long-term developments including impacts of climate change on the occurrence of floods.

In these cases, Member States shall, by... (*), communicate to the Commission the information referred to in Annex I to Directive 2000/60/EC. For this purpose, any reference to competent authorities and river basin districts shall be taken as references to the competent authorities and unit of management referred to in this Article. Member States shall inform the Commission of any changes in the information provided pursuant to this paragraph within three months of the change coming into effect.

3. In the case of international river basin districts, or units of management referred to in Article 3(2)(b) which are shared with other Member States, Member States shall ensure that exchange of relevant information takes place between the competent authorities concerned.

(*) Two years and a half after the date of entry into force of this Directive.

4. Member States shall complete the preliminary flood risk assessment by 22 December 2012.

Article 5

1. On the basis of a preliminary flood risk assessment as referred to in Article 4, Member States shall, for each river basin district, or unit of management referred to in Article 3(2)(b), or portion of an international river basin district lying within their territory, identify those areas for which they conclude that potential significant flood risks exist or might reasonably be considered likely to occur.

2. The identification under paragraph 1 of areas belonging to an international river basin district, or to a unit of management referred to in Article 3(2)(b) shared with another Member State, shall be coordinated between the Member States concerned.

CHAPTER III

FLOOD HAZARD MAPS AND FLOOD RISK MAPS*Article 6*

1. Member States shall, at the level of the river basin district or unit of management referred to in Article 3(2)(b), prepare flood hazard maps and flood risk maps, at the most appropriate scale for the areas identified under Article 5(1).

2. The preparation of flood hazard maps and flood risk maps for areas identified under Article 5 which are shared with other Member States shall be subject to prior exchange of information between the Member States concerned.

3. Flood hazard maps shall cover the geographical areas which could be flooded according to the following scenarios:

- (a) floods with a low probability, or extreme events scenarios;
- (b) floods with a medium probability (likely return period \geq 100 years);
- (c) floods with a high probability, where appropriate.

4. For each scenario referred to in paragraph 3 the following elements shall be shown:

- (a) the flood extent;
- (b) water depths or water level, as appropriate;
- (c) where appropriate, the flow velocity or the relevant water flow.

5. Flood risk maps shall show the potential adverse consequences associated with flood scenarios referred to in paragraph 3 and expressed in terms of the following:

- (a) the indicative number of inhabitants potentially affected;

(b) type of economic activity of the area potentially affected;

(c) installations as referred to in Annex I to Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control⁽¹⁾ which might cause accidental pollution in case of flooding and potentially affected protected areas identified in Annex IV(1)(i), (iii) and (v) to Directive 2000/60/EC;

(d) other information which the Member State considers useful such as the indication of areas where floods with a high content of transported sediments and debris floods can occur.

6. Member States may decide that, for coastal areas where an adequate level of protection is in place, the preparation of flood hazard maps shall be limited to the scenario referred to in paragraph 3(a).

7. Member States may decide that, for areas where flooding is from groundwater sources, the preparation of flood hazard maps shall be limited to the scenario referred to in paragraph 3(a).

8. Member States shall ensure that the flood hazard maps and flood risk maps are completed by 22 December 2013.

CHAPTER IV

FLOOD RISK MANAGEMENT PLANS*Article 7*

1. On the basis of the maps referred to in Article 6, Member States shall establish flood risk management plans coordinated at the level of the river basin district or unit of management referred to in Article 3(2)(b) for the areas identified under Article 5(1) and the areas covered by Article 13(1)(b) in accordance with paragraphs 2 and 3 of this Article.

2. Member States shall establish appropriate objectives for the management of flood risks for the areas identified under Article 5(1) and the areas covered by Article 13(1)(b), focusing on the reduction of potential adverse consequences of flooding for human health, the environment, cultural heritage and economic activity, and, if considered appropriate, on non-structural initiatives and/or on the reduction of the likelihood of flooding.

3. Flood risk management plans shall include measures that aim at achieving the objectives established in accordance with paragraph 2 and shall include the components set out in Part A of the Annex.

⁽¹⁾ OJ L 257, 10.10.1996, p. 26. Directive as last amended by Regulation (EC) No 166/2006 (OJ L 33, 4.2.2006, p. 1).

Flood risk management plans shall take into account relevant aspects such as costs and benefits, flood extent and flood conveyance routes and areas which have the potential to retain flood water, the environmental objectives of Article 4 of Directive 2000/60/EC, soil and water management, spatial planning, land use, nature conservation, navigation and port infrastructure.

Flood risk management plans shall address all aspects of flood risk management focusing on prevention, protection, preparedness, including flood forecasts and early warning systems and taking into account the characteristics of the particular river basin or sub-basin. Flood risk management plans may also include the controlled flooding of certain areas in the case of a flood event.

4. Flood risk management plans established in one Member State shall not include measures which, by their extent and impact, significantly increase flood risks upstream or downstream of other countries in the same river basin or sub-basin, unless these measures have been coordinated and an agreed solution has been found among the Member States concerned in the framework of Article 8.

5. Member States shall ensure that flood risk management plans are completed and published by 22 December 2015.

Article 8

1. For river basin districts or units of management referred to in Article 3(2)(b) which fall entirely within their territory, Member States shall ensure that one single flood risk management plan, or a set of flood risk management plans coordinated at the level of the river basin district, is produced.

2. Where an international river basin district or unit of management referred to in Article 3(2)(b) falls entirely within the Community, Member States shall ensure coordination with the aim of producing one single international flood risk management plan, or a set of flood risk management plans coordinated at the level of the international river basin district. Where such plans are not produced, Member States shall produce flood risk management plans covering at least the parts of the international river basin district falling within their territory, as far as possible coordinated at the level of the international river basin district.

3. Where an international river basin district or unit of management referred to in Article 3(2)(b) extends beyond the boundaries of the Community, Member States shall endeavour to produce one single international flood risk management plan or a set of flood risk management plans coordinated at the level of the international river basin district; where this is not possible, paragraph 2 shall apply for the parts of the international river basin falling within their territory.

4. The flood risk management plans referred to in paragraphs 2 and 3 shall be supplemented, where considered appropriate by countries sharing a sub-basin, by more detailed flood risk management plans coordinated at the level of the international sub-basins.

5. Where a Member State identifies an issue which has an impact on the management of flood risks of its water and that issue cannot be resolved by that Member State, it may report the issue to the Commission and any other Member State concerned and may make recommendations as to how the issue should be resolved.

The Commission shall respond to any report or recommendations from Member States within a period of six months.

CHAPTER V

COORDINATION WITH DIRECTIVE 2000/60/EC, PUBLIC INFORMATION AND CONSULTATION

Article 9

Member States shall take appropriate steps to coordinate the application of this Directive and that of Directive 2000/60/EC focusing on opportunities for improving efficiency, information exchange and for achieving common synergies and benefits having regard to the environmental objectives laid down in Article 4 of Directive 2000/60/EC. In particular:

- 1) the development of the first flood hazard maps and flood risk maps and their subsequent reviews as referred to in Articles 6 and 14 of this Directive shall be carried out in such a way that the information they contain is consistent with relevant information presented according to Directive 2000/60/EC. They may, if considered appropriate, be further coordinated with, and integrated into, the reviews provided for in Article 5(2) of Directive 2000/60/EC;
- 2) the development of the first flood risk management plans and their subsequent reviews as referred to in Articles 7 and 14 of this Directive shall be carried out, if considered appropriate, in coordination with, and may be integrated into, the reviews of the river basin management plans provided for in Article 13(7) of Directive 2000/60/EC;
- 3) the active involvement of all interested parties under Article 10 of this Directive shall be coordinated, as appropriate, with the active involvement of interested parties under Article 14 of Directive 2000/60/EC.

Article 10

1. In accordance with applicable Community legislation, Member States shall make available to the public the preliminary flood risk assessment, the flood hazard maps, the flood risk maps and the flood risk management plans.

2. Member States shall encourage active involvement of interested parties in the production, review and updating of the flood risk management plans referred to in Chapter IV.

CHAPTER VI

IMPLEMENTING MEASURES AND AMENDMENTS

Article 11

1. The Commission may, in accordance with the procedure referred to in Article 12(2), adopt technical formats for the purpose of processing and transmission of data, including statistical and cartographic data, to the Commission. The technical formats should be adopted at least two years before the dates indicated respectively in Articles 4(4), 6(8) and 7(5), taking into account existing standards as well as formats developed under relevant Community acts.

2. The Commission may, taking into account the periods for review and updating and in accordance with the procedure referred to in Article 12(2), adapt the Annex to scientific and technical progress.

Article 12

1. The Commission shall be assisted by the committee established under Article 21 of Directive 2000/60/EC (hereinafter referred to as 'the Committee').

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

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

CHAPTER VII

TRANSITIONAL MEASURES

Article 13

1. Member States may decide not to undertake the preliminary flood risk assessment referred to in Article 4 for those river basins, sub-basins or coastal areas where they have either:

- (a) already undertaken a risk assessment to conclude, before 22 December 2010, that a potential significant flood risk exists or might be reasonably considered likely to occur leading to the identification of the area among those referred to in Article 5(1) or

- (b) decided, before 22 December 2010, to prepare flood hazard maps and flood risk maps and to establish flood risk management plans in accordance with the relevant provisions of this Directive.

2. Member States may decide to make use of flood hazard maps and flood risk maps finalised before 22 December 2010, if such maps provide a level of information equivalent to the requirements of Article 6.

3. Member States may decide to make use of flood risk management plans finalised before 22 December 2010, provided the content of these plans is equivalent to the requirements set out in Article 7.

4. Paragraphs 1, 2 and 3 shall apply without prejudice to Article 14.

CHAPTER VIII

REVIEWS, REPORTS AND FINAL PROVISIONS

Article 14

1. The preliminary flood risk assessment, or the assessment and decisions referred to in Article 13(1), shall be reviewed, and if necessary updated, by 22 December 2018 and every six years thereafter.

2. The flood hazard maps and the flood risk maps shall be reviewed and if necessary updated, by 22 December 2019 and every six years thereafter.

3. The flood risk management plan(s) shall be reviewed, and if necessary updated, including the components set out in part B of the Annex, by 22 December 2021 and every six years thereafter.

4. The likely impact of climate change on the occurrence of floods shall be taken into account in the reviews referred to in paragraphs 1 and 3.

Article 15

1. Member States shall make available the preliminary flood risk assessment, the flood hazard maps, the flood risk maps and flood risk management plans referred to in Articles 4, 6 and 7, as well as their review and, where applicable, their updates to the Commission within three months after the dates indicated respectively in Articles 4(4), 6(8), 7(5) and 14.

2. Member States shall inform the Commission of the decisions taken in accordance with Article 13(1), (2) and (3) and make available the relevant information thereon by the dates indicated respectively in Articles 4(4), 6(8) and 7(5).

Article 16

The Commission shall, by 22 December 2018, and every six years thereafter, submit to the European Parliament and to the Council a report on the implementation of this Directive.

Article 17

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.

When they are adopted by Member States, these measures 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.

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 18

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

Article 19

This Directive is addressed to the Member States.

Done at,

For the European Parliament

The President

...

For the Council

The President

...

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

ANNEX

A. FLOOD RISK MANAGEMENT PLANS

I. Components of the first flood risk management plans:

- 1) the conclusions of the preliminary flood risk assessment as required in Chapter II in the form of a summary map of the river basin district or the unit of management referred to in Article 3(2)(b) delineating the areas identified under Article 5(1) which are the subject of this flood risk management plan;
- 2) flood hazard maps and flood risk maps as prepared under Chapter III, or already in place in accordance with Article 13, and the conclusions that can be drawn from those maps;
- 3) a description of the appropriate objectives of flood risk management, established in accordance with Article 7(2);
- 4) a summary of the measures aiming to achieve the appropriate objectives of flood risk management, including the measures taken in accordance with Article 7, and flood related measures taken under other Community acts, including Council Directives 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment ⁽¹⁾ and 96/82/EC of 9 December 1996 on the control of major accident hazards involving dangerous substances ⁽²⁾, Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment ⁽³⁾ and Directive 2000/60/EC;
- 5) when available, for shared river basins or sub-basins, a description of the methodology, defined by the Member States concerned, of cost-benefit analysis used to assess measures with trans-national effects.

II. Description of the implementation of the plan:

- 1) a description of the way in which progress in implementing the plan will be monitored;
- 2) a summary of the public information and consultation measures/actions taken;
- 3) a list of competent authorities and, as appropriate, a description of the coordination process within any international river basin district and of the coordination process with Directive 2000/60/EC.

B. COMPONENTS OF THE SUBSEQUENT UPDATE OF FLOOD RISK MANAGEMENT PLANS:

- 1) any changes or updates since the publication of the previous version of the flood risk management plan, including a summary of the reviews carried out in compliance with Article 14;
- 2) an assessment of the progress made towards the achievement of the objectives referred to in Article 7(2);
- 3) a description of, and an explanation for, any measures foreseen in the earlier version of the flood risk management plan which were planned to be undertaken and have not been taken forward;
- 4) a description of any additional measures since the publication of the previous version of the flood risk management plan.

⁽¹⁾ OJ L 175, 5.7.1985, p. 40. Directive as last amended by Directive 2003/35/EC of the European Parliament and of the Council (OJ L 156, 25.6.2003, p. 17).

⁽²⁾ OJ L 10, 14.1.1997, p.13. Directive as last amended by Directive 2003/105/EC of the European Parliament and of the Council (OJ L 345, 31.12.2003, p. 97).

⁽³⁾ OJ L 197, 21.7.2001, p. 30.

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

The Commission adopted its proposal for a Directive of the European Parliament and of the Council on the assessment and management of floods on 18 January 2006.

The European Parliament adopted its first-reading opinion on 13 June 2006.

The Committee of the Regions has decided not to deliver an opinion.

The Economic and Social Committee adopted its opinion on 17 May 2006.

The Council adopted its common position on 23 November 2006.

II. OBJECTIVE

The objective of this Directive is to establish a framework for the assessment and management of flood-related risks to human health, the environment, cultural heritage and economic activity. It will ask for a preliminary flood risk assessment, flood mapping in all areas with a significant flood risk, coordination within shared river basins and production of flood risk management plans through a broad participatory process.

Given the diversity across the EU in terms of geography, hydrology and settlement structure, the proposed Directive provides considerable flexibility for Member States to determine the objectives for the management of flood risks, the measures to be taken to achieve these objectives, and the timetables for implementing measures in the flood risk management plans.

The application of the proposed Directive and that of the Water Framework Directive shall be coordinated.

III. ANALYSIS OF THE COMMON POSITION

1. General

The common position incorporates a number of the European Parliament's first reading amendments, either verbatim, in part or in spirit. These improve or clarify the text of the proposed Directive.

However, other amendments are not reflected in the common position because the Council agreed that they were unnecessary and/or unacceptable.

2. General provisions (Title, Chapter I)

The common position is consistent with Amendment 1, which changes the title of the Directive. Since the reference to the attainment of environmental objectives laid down in existing Community legislation is covered by the Directive's legal basis, Amendment 26 was taken in part. The common position is not aligned with Amendment 27 which would limit the application of the Directive to specific causes of floods. The consequences for human health and economic activity are also mentioned in the definition of flood risk. The Council, however, adds a non-exhaustive list of types of flood and the possibility of excluding floods from sewerage systems. Amendments 28 and 29 were taken in part and in full, respectively.

Amendment 30 on the use of other competent authorities was taken in full. In addition, a possibility of using units of management different from those assigned pursuant to Article 3(1) of Directive 2000/60/EC was introduced.

3. Preliminary flood risk assessment (Chapter II)

Amendments 32 and 33 were taken in full. Article 4 was simplified to reduce the administrative burden of the preliminary flood risk assessments and, consequently, Amendments 34 and 36 were not accepted. However, the assessment of the effectiveness of existing flood protection infrastructure as mentioned in Amendment 36 forms an implicit part of any flood risk assessment. A distinction between past and future floods was also made. In Article 4(2)(d), the Council made the taking into account of future floods optional for Member States.

The Council deleted Article 5 (1)(a) of the original proposal to which Amendment 38 is referring to with the aim of simplifying and streamlining the text. Amendment 39 was accepted in spirit. Amendment 40 was taken over in Article 4.

4. Flood hazard maps and flood risk maps (Chapter III)

The issue of subsidies is beyond the scope of this Directive and Amendment 85 was therefore not accepted. Amendments 42 and 43 were rejected because they were redundant. Amendments 44, 46 and 48 are covered by Article 6(5)(d), which leaves it up to Member States to decide on other information to include in flood risk maps. Article 7(3) is also consistent with Amendment 48. Amendment 45 is redundant since the wording in the common position has changed. Amendment 47 was rejected since it is not feasible to distinguish between and map specific causes of floods, and Amendment 49 was taken over in part.

Amendments 50 and 51 were not acceptable because they added extra layers to the risk assessment and characterisation process. Amendment 52 was accepted in Article 6(5)(d).

5. Flood risk management plans (Chapter IV, Annex)

The part of Amendments 35 and 60 which related to cost and benefit considerations was taken over in Article 7(3). Amendment 53 was not taken, since it is not necessary to make an explicit reference to other Directives Member States have to comply with. Article 7(3) is consistent with Amendment 54 as regards flood plain areas and conveyance routes. Amendment 56 was taken up insofar as it related to the solidarity principle and Amendment 57 was partly accepted as regards non-structural measures and as far as flood risk management plans shall not include measures which may increase flood risk upstream or downstream of other countries (Article 7(4)).

Amendment 58 was not acceptable since the Council did not wish to lay stress on the review of flood events. Amendment 59 was taken in principle in the Annex. Amendment 61 was taken in part and principle as regards the principle of solidarity. Amendment 62 was not accepted so as to keep the solidarity principle sufficiently general. Amendment 63 was not accepted since the suggested coordination procedure was not taken on board and certain parts of the amendment were unnecessary.

Amendments 64 and 65 were taken in part and principle with respect to coordination for the whole of the river basin. Amendment 66 was fully taken but with different wording, reproducing the text from the Water Framework Directive. The two separate votes were rejected since the Council wanted to maintain the coordination optional. Amendment 68 was taken in principle in the common position by making a reference to public participation in Article 10(1). Amendment 69 was rejected because involvement of the public was already covered in Article 10. The common position does not include details of preparedness measures and is therefore not consistent with Amendments 69 and 70. Amendment 72 was rejected because it is not appropriate in the context of reporting requirements.

Amendment 74 was rejected. The Council believes that Article 7(3) already provided the link between this Directive and the Water Framework Directive. It is up to Member States to define the measures aimed at reducing the potential adverse consequences of flooding. Amendment 75 was rejected since the terminology is inconsistent with Articles 7(2) and 7(3). Amendment 86 was accepted.

6. Transitional measures (Chapter VII)

The common position builds on existing work at national and regional levels, namely flood hazard maps, flood risk maps and management plans. Article 13 takes on board, in part and/or in principle, Amendments 31, 37, 41, 55 and 71.

7. Other

- In the preamble, the common position takes in part or principle European Parliament Amendments 2, 12, 16, 17, 24 and 25. The common position is not consistent with Amendment 4 since preliminary flood risk assessment takes into consideration floods which have occurred in the past and the failure of traditional flood risk management strategies. Amendment 5 is out of place in this Directive since it refers to coordination within Member States and to how authorities coordinate internally. Amendment 9 was rejected because it is unnecessary: it expands Recital 19 and reproduces text from Council conclusions. Amendment 23 was also rejected since it is an editorial change to Recital 19. Amendment 13 was rejected as it does not reflect a provision in the articles. Since the notion of preliminary risk assessment was simplified, Amendments 15 and 18 were not acceptable. Amendments 19 and 21 are beyond the scope of this Directive. The common position being based on the principles of subsidiarity and solidarity, Amendment 20 was partly taken on board. Amendment 22 was already covered by Recital 17 and, therefore, rejected.
- References to climate change (Amendments 7, 9, 10 and 38 are covered in part by Recitals 2 and 5 and by Article 4(2)(d). The obligation to take into account climate change starts in 2018, so Amendment 73 was unacceptable.

IV. CONCLUSION

The Council considers that its common position largely takes into account the opinion of the European Parliament at first reading. It represents a balanced and realistic solution aiming to reduce the consequences of floods in the European Union, while ensuring a close link to the implementation of the Water Framework Directive. The Council looks forward to a constructive discussion with the European Parliament with a view to the early adoption of the Directive.
