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3. whether any serotype shows a rapid and recent ability to spread and to cause disease in humans and animals;
 4. *whether any serotypes show increased virulence, for instance as regards invasiveness, or resistance to relevant therapies for human infections.*
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P5_TA(2003)0285

Major-accident hazards involving dangerous substances *II**

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

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (14054/1/2002 – C5-0085/2003) ⁽¹⁾,
- having regard to its position at first reading ⁽²⁾ on the Commission proposal to Parliament and the Council (COM(2001) 624) ⁽³⁾,
- having regard to the Commission's amended proposal (COM(2002) 540) ⁽⁴⁾,
- having regard to Article 251(2) of the EC Treaty,
- having regard to Rule 80 of its Rules of Procedure,
- having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Consumer Policy (A5-0198/2003),

1. Amends the common position as follows;
2. Instructs its President to forward its position to the Council and Commission.

⁽¹⁾ OJ C 102 E, 29.4.2003, p. 1.

⁽²⁾ P5_TA(2002)0355.

⁽³⁾ OJ C 75 E, 26.3.2002, p. 357.

⁽⁴⁾ OJ C 20 E, 28.1.2003, p. 255.

P5_TC2-COD(2001)0257

Position of the European Parliament adopted at second reading on 19 June 2003 with a view to the adoption of European Parliament and Council Directive 2003/.../EC amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances

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⁾,

⁽¹⁾ OJ C 75 E, 26.3.2002, p. 357 and OJ C 20 E, 28.1.2003, p. 255.

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

Following consultation of the Committee of the Regions,

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

Whereas:

- (1) Directive 96/82/EC⁽³⁾ aims at the prevention of major accidents which involve dangerous substances and the limitation of their consequences for man and the environment, with a view to ensuring high levels of protection throughout the Community in a consistent and effective manner.
- (2) In the light of recent industrial accidents and studies on carcinogens and substances dangerous for the environment carried out by the Commission at the Council's request, the scope of Directive 96/82/EC should be extended.
- (3) The cyanide spill that polluted the Danube following the accident at Baia Mare in Romania in January 2000 has demonstrated that certain storage and processing activities in mining have a potential to produce very serious consequences. The Commission Communications on the safe operation of mining activities: *a follow-up to recent mining accidents*⁽⁴⁾ and on the sixth environment action programme of the European Community 'Environment 2010: Our future, Our choice'⁽⁵⁾ have therefore highlighted the need for an extension of the scope of Directive 96/82/EC. In its Resolution of 5 July 2001 on the Commission Communication on the safe operation of mining activities: *a follow-up to recent mining accidents*⁽⁶⁾, the European Parliament also welcomed the extension of the scope of that Directive to cover risks arising from storage and processing activities in mining.
- (4) The 'fireworks accident' at Enschede in the Netherlands in May 2000 has demonstrated the major accident potential arising from storage and manufacture of pyrotechnic and explosive substances. The definition of such substances in Directive 96/82/EC should therefore be clarified and simplified.
- (5) The explosion at a fertiliser plant in Toulouse in September 2001 has raised awareness of the accident potential arising from the storage of ammonium nitrate and ammonium nitrate-based fertilisers, in particular of material rejected during the manufacturing process or returned to the manufacturer (so-called 'off-specs'). The existing categories of ammonium nitrate and ammonium nitrate-based fertilisers in Directive 96/82/EC should therefore be reviewed with a view to include 'off-specs' material.
- (6) Directive 96/82/EC should not be applied to sites of end-users where ammonium nitrate and ammonium nitrate-based fertilisers, which on delivery conformed to the specification in that Directive but subsequently have become degraded or contaminated, are temporarily present prior to removal for reprocessing or destruction.
- (7) Studies carried out by the Commission in close co-operation with the Member States support extending the list of carcinogens with appropriate qualifying quantities and significantly lowering the qualifying quantities assigned to substances dangerous for the environment in Directive 96/82/EC.
- (8) For establishments which subsequently fall within the scope of Directive 96/82/EC, it has been shown necessary to introduce minimum periods for notifications and the establishment of major accident prevention policies, safety reports and emergency plans.
- (9) The experience and knowledge of relevant staff in the establishment can greatly assist in the drawing up of emergency plans, and all staff in an establishment and persons likely to be affected should be appropriately informed on safety measures and actions.

⁽¹⁾ OJ C 149, 21.6.2002, p. 13.

⁽²⁾ Position of the European Parliament of 3 July 2002 (not yet published in the Official Journal), Council Common Position of 20 February 2003 (OJ C 102 E, 29.4.2003, p. 1) and Position of the European Parliament of 19 June 2003 (not yet published in the OJ).

⁽³⁾ OJ L 10, 14.1.1997, p. 13.

⁽⁴⁾ COM(2000) 664.

⁽⁵⁾ COM(2001) 31.

⁽⁶⁾ OJ C 65 E, 14.3.2002, p. 382.

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- (10) The adoption of Council Decision 2001/792/EC, Euratom of 23 October 2001 establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions⁽¹⁾ highlights the need to facilitate reinforced cooperation in civil protection assistance interventions.
- (11) It is useful, in order to facilitate land-use planning, to draw up guidelines defining a database to be used for assessing the compatibility between the establishments covered by Directive 96/82/EC and the areas described in Article 12(1) of that Directive.
- (12) There should be an obligation on Member States to supply the Commission with minimum information concerning the establishments covered by Directive 96/82/EC.
- (13) It is appropriate at the same time to clarify certain passages in Directive 96/82/EC.
- (14) The measures provided for in this Directive have been the subject of a public consultation process involving interested parties.
- (15) Directive 96/82/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 96/82/EC is hereby amended as follows:

1. In Article 4:

(a) points (e) and (f) shall be replaced by the following:

- ‘(e) the exploitation (exploration, extraction and processing) of minerals in mines or quarries, or by means of boreholes, with the exception **of processing** operations and related storage involving dangerous substances as defined in Annex I;
- (f) the offshore exploration and exploitation of minerals, including hydrocarbons;’

(b) the following point shall be added:

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

2. In Article 6:

(a) the following indent shall be added in paragraph 1:

- ‘— for establishments which subsequently fall within the scope of this Directive, within three months after the date on which this Directive applies to the establishment concerned, as laid down in the first subparagraph of Article 2(1).’

(b) **the following indent shall be inserted after the first indent of paragraph 4:**

- ‘— **substantial modification of an installation, an establishment or a storage area, or**

3. The following paragraph shall be inserted in Article 7:

- ‘1a. For establishments which subsequently fall within the scope of this Directive, the document referred to in paragraph 1 shall be drawn up without delay, but at all events within three months after the date on which this Directive applies to the establishment concerned, as laid down in the first subparagraph of Article 2(1).’

4. Point (b) of Article 8(2) shall be replaced by the following:

- ‘(b) provision is made for cooperation in informing the public and in supplying information to the authority responsible for the preparation of external emergency plans.’

⁽¹⁾ OJ L 297, 15.11.2001, p. 7.

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5. *In Article 9:*(a) *the first subparagraph of paragraph 2 shall be replaced by the following:*

'2. The safety report shall contain at least the data and information listed in Annex II. It shall name the relevant organisations involved in the drawing up of the report. It shall also contain an updated inventory of the dangerous substances present in the establishment.'

(b) *the following indent shall be inserted between the third and fourth indents of paragraph 3:*

— for establishments which subsequently fall within the scope of this Directive, without delay, but at all events within one year after the date on which this Directive applies to the establishment concerned, as laid down in the first subparagraph of Article 2(1).'

(c) *in paragraph 4, the reference to 'the second, third, and fourth indents' shall become 'the second, third, fourth and fifth indents' respectively.*(d) *the following point shall be added after point (c) of paragraph 6:*

'(d) Member States shall ensure that the different methods used for drawing up safety reports are approximated.'

6. *In Article 11:*(a) *the following indent shall be added to points (a) and (b) of paragraph 1:*

— for establishments which subsequently fall within the scope of this Directive, without delay, but at all events within one year after the date on which this Directive applies to the establishment concerned, as laid down in the first subparagraph of Article 2(1).'

(b) *paragraph 3 shall be replaced by the following:*

'3. Without prejudice to the obligations of the competent authorities, Member States shall ensure that the internal emergency plans provided for in this Directive are drawn up in consultation with the personnel working inside the establishment, including long-term relevant subcontracted personnel and that the public is consulted on external emergency plans when they are established or updated.'

(c) *the following paragraph shall be inserted:*

'4a. With regard to external emergency plans, Member States should take into account the need to facilitate enhanced cooperation in civil protection assistance in major emergencies.'

7. *In Article 12:*(a) *the second subparagraph of paragraph 1 shall be replaced by the following:*

'Member States shall ensure that their land-use and/or other relevant policies and the procedures for implementing those policies take account of the need, in the long term, to maintain appropriate distances between establishments covered by this Directive and residential areas, buildings and areas of public use, major transport routes as far as possible, recreational areas and areas of particular natural sensitivity or interest and, in the case of existing establishments, of the need for additional technical measures in accordance with Article 5 so as not to increase the risks to people.'

(b) *the following paragraphs shall be inserted:*

'1a. **Not later than ... (*)**, the **Commission, in** close cooperation with the Member States, **shall** draw up guidelines defining a **harmonised** technical database **of risk data and risk scenarios** to be used for assessing the compatibility between **existing** establishments covered by this Directive and the **sensitive** areas **listed** in paragraph 1. **This assessment shall in any case** take account of the **evaluations made** by the **competent authorities**, the information obtained from operators and all other relevant information **such as the socio-economic benefits of development and the mitigating effects of emergency plans**.

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1b. The Commission shall in the same context develop a scheme of incentives and/or funding for the relocation of establishments covered by this Directive which are not located at an appropriate safety distance. This could be done in the framework of regional policy.

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

8. In Article 13:

(a) the first subparagraph of paragraph 1 shall be replaced by the following:

‘1. Member States shall ensure that information on safety measures and on the requisite behaviour in the event of an accident is supplied regularly and in the most appropriate form, without their having to request it, to all persons and all establishments serving the public (such as schools and hospitals) liable to be affected by a major accident originating in an establishment covered by Article 9.’

(b) paragraph 6 shall be replaced by the following:

‘6. In the case of establishments subject to the provisions of Article 9, Member States shall ensure that the inventory of dangerous substances provided for in Article 9(2) is made available to the public subject to the provisions of paragraph 4 of this Article and Article 20.’

9. The following paragraph shall be inserted in Article 19:

‘1a. For establishments covered by this Directive, Member States shall supply the Commission with at least the following information:

- (a) the name or trade name of the operator and the full address of the establishment concerned; and
- (b) the activity or activities of the establishment.

The Commission shall set up and keep up to date a database containing the information supplied by the Member States. Access to the database shall be reserved to persons authorised by the Commission or the competent authorities of the Member States.’

10. Annex I shall be amended as set out in the Annex.

11. In Annex III:

(a) point (c), (i) shall be replaced by the following:

‘(i) organisation and personnel — the roles and responsibilities of personnel involved in the management of major hazards at all levels in the organisation. The identification of training needs of such personnel and the provision of the training so identified. The involvement of employees and of subcontracted personnel working in the establishment.’

(b) point (c)(v) shall be replaced by the following:

‘(v) **planning for emergencies — adoption and implementation of procedures to identify foreseeable emergencies by systematic analysis and to prepare, test and review emergency plans to respond to such emergencies, and specific training for the staff concerned. Such training shall be given to all staff working in the establishment, including sub-contracted personnel.**

12. In Annex V, the following point shall be inserted:

‘10a. **A map showing areas which might be affected by the consequences of major accidents arising from the establishment.**

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Article 2

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 Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such a 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 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 ..., on ...

For the European Parliament
The President

For the Council
The President

^(*) Eighteen months after *the* entry into force of this Directive.

ANNEX

Annex I to Directive 96/82/EC is hereby amended as follows:

1) The following points shall be added to the INTRODUCTION:

- ‘6. For the purposes of this Directive, a gas is any substance that has an absolute vapour pressure equal to or greater than 101,3 kPa at a temperature of 20 °C.
7. For the purposes of this Directive, a liquid is any substance that is not defined as a gas and that is not in the solid state at a temperature of 20 °C and at a standard pressure of 101,3 kPa.’

2) In the table in Part 1:

(a) the entries relating to ‘Ammonium nitrate’ shall be replaced by the *following*:

Ammonium nitrate	5 000	10 000
Ammonium nitrate	1 250	5 000
Ammonium nitrate	350	2 500
Ammonium nitrate	10	50

(b) *the following entries shall be inserted after the entries relating to ‘Ammonium nitrate’:*

Potassium nitrate	1 250	5 000
Potassium nitrate	5 000	10 000