

Directive 94/22/EC of the European Parliament and of the Council of
30 May 1994 on the conditions for granting and using authorizations
for the prospection, exploration and production of hydrocarbons

Article 6

1 Member States shall ensure that the conditions and requirements referred to in Article 5 (2) and the detailed obligations for use of a specific authorization are justified exclusively by the need to ensure the proper performance of the activities in the area for which an authorization is requested, by the application of paragraph 2 or by the payment of a financial contribution or a contribution in hydrocarbons.

2 Member States may, to the extent justified by national security, public safety, public health, security of transport, protection of the environment, protection of biological resources and of national treasures possessing artistic, historic or archaeological value, safety of installations and of workers, planned management of hydrocarbon resources (for example the rate at which hydrocarbons are depleted or the optimization of their recovery) or the need to secure tax revenues, impose conditions and requirements on the exercise of the activities set out in Article 2 (1).

3 The rules for payment of contributions referred to in paragraph 1, including any requirement for State participation, shall be fixed by Member States in such a way as to ensure that the independence of management of entities is maintained.

However, where the grant of authorizations is subject to the State's participation in the activities and where a legal person has been entrusted with the management of this participation or where the State itself manages the participation, neither the legal person nor the State shall be prevented from assuming the rights and obligations associated with such participation, equivalent to the importance of the participation provided that the legal person or the State shall not be party to information nor exercise any voting rights on decisions regarding sources of procurement for entities, that the legal person or the State in combination with any public entity or entities shall not exercise a majority voting right on other decisions and that any vote by the State or the legal person shall be based exclusively on transparent, objective and non-discriminatory principles, and shall not prevent the management decisions of the entity from being based on normal commercial principles.

However, the provisions of the preceding sub-paragraph shall not prevent the legal person or the State from opposing a decision by the holders of an authorization which would not respect the conditions and requirements, specified in the authorization, regarding depletion policy and protection of the financial interests of the State.

The option to oppose a decision shall be exercised in a non-discriminatory manner, particularly regarding investment decisions and sources of supply of entities. Where the State's participation in the activities is managed by a legal person which also holds the authorizations, the Member State shall put in place arrangements requiring that legal person to keep separate accounts for its commercial role and its role as manager of the State's participation and guaranteeing that there is no flow of information from the part of the legal person responsible for the management of the State's participation to the part of the legal person which holds authorizations in its own right. However, where the part of the legal person responsible for the management of the State's participation engages the part of the legal person which holds authorization as a consultant, the former may make available any information which is necessary for the consultancy work to be carried out. The holders of all authorizations to which the information relates shall be

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informed in advance of what information will be given in this way and shall be given sufficient time to raise objections.

4 Member States shall ensure that the monitoring of entities under an authorization is limited to that necessary to ensure compliance with the conditions, requirements and obligations referred to in paragraph 1. In particular, they shall take the measures necessary to ensure that no entity is required, by any law, regulation or administrative requirement, or by any agreement or undertaking, to provide information on its intended or actual sources of procurement, except at the request of the competent authorities and exclusively with a view to the objectives set out in Article 36 of the Treaty.