

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

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PARLIAMENT AND OF THE COUNCIL

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on the conditions for granting and using authorizations for
the prospection, exploration and production of hydrocarbons

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 57
(2), first and third sentences, Articles 66 and 100a thereof,

Having regard to the proposal from the Commission⁽¹⁾,

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

Acting in accordance with the procedure referred to in Article 189b of the Treaty⁽³⁾,

Whereas the internal market comprises an area without internal frontiers in which the free
movement of goods, services, persons and capital is ensured; whereas the necessary measures
must be adopted for its operation;

Whereas in its resolution of 16 September 1986⁽⁴⁾, the Council identified as an objective of
the energy policy of the Community and the Member States the greater integration, free from
barriers to trade, of the internal energy market with a view to improving security of supply,
reducing costs and improving economic competitiveness;

Whereas the Community largely depends on imports for its hydrocarbon supply; whereas it is
consequently advisable to encourage the best possible prospection, exploration and production
of the resources located in the Community;

Whereas Member States have sovereignty and sovereign rights over hydrocarbon resources on
their territories;

Whereas the Community is a signatory to the United Nations Convention on the Law of the Sea;

Whereas steps must be taken to ensure the non-discriminatory access to and pursuit of activities
relating to the prospection, exploration and production of hydrocarbons under conditions
which encourage greater competition in this sector and thereby to favour the best prospection,
exploration and production of resources in Member States and to reinforce the integration of
the internal energy market;

Whereas, for this purpose, it is necessary to set up common rules for ensuring that the procedures
for granting authorizations for the prospection, exploration and production of hydrocarbons
must be open to all entities possessing the necessary capabilities; whereas authorizations must

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be granted on the basis of objective, published criteria; whereas the conditions under which authorizations are granted must likewise be known in advance by all entities taking part in the procedure;

Whereas Member States must retain the options to limit the access to and the exercise of these activities for reasons justified by public interest and to subject to the payment of a financial contribution or a contribution in hydrocarbons, the detailed arrangements of the said contribution having to be fixed in such a way as not to interfere in the management of entities; whereas these options must be used in a non-discriminatory way; whereas, with the exception of the obligations related to the use of this option, steps must be taken to avoid imposing on entities, conditions and obligations which are not justified by the need to perform this activity properly; whereas the activities of entities must be monitored only to the extent necessary to ensure their compliance with these obligations and conditions;

Whereas the extent of the areas covered by an authorization and the duration of the authorization must be limited with a view to preventing the reservation to a single entity of an exclusive right over an area which can be prospected, explored and brought into production more efficiently by several entities;

Whereas Member States' entities should enjoy in third countries a treatment comparable to that enjoyed by third countries' entities in the Community by virtue of this Directive; whereas it is necessary to lay down a procedure to this end;

Whereas this Directive should apply to authorizations issued after the date by which Member States have to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive;

Whereas Council Directive 90/531/EEC of 17 September 1990 on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors⁽⁵⁾ and Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors⁽⁶⁾ apply to the entities in the energy sector as regards their procurement of supplies, of works and of services; whereas the application of the alternative arrangements provided for under Article 3 of Directive 90/531/EEC is subject in particular to the condition that, in the Member State requesting the application of these arrangements, authorizations be granted in a non-discriminatory and transparent manner; whereas a Member State fulfils this condition from the moment when and for as long as it complies with the requirements of this Directive; whereas it is consequently necessary to amend Directive 90/531/EEC;

Whereas Article 36 of Directive 90/531/EEC provides for a review within four years, in the light of developments concerning in particular progress in market opening and the level of competition, of the field of application of that Directive. This review of the field of application includes hydrocarbon exploration and extraction;

Whereas Denmark is in a special situation, due to the fact that it is obliged to enter into negotiations on a possible continuation of the activities after the expiry of the concession, issued on 8 July 1962, concerning the areas which are relinquished on 8 July 2012 and that Denmark will thus be accorded a derogation concerning these areas,

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HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ No C 139, 2. 6. 1992, p. 12.](#)
- (2) [OJ No C 19, 25. 1. 1993, p. 128.](#)
- (3) [Opinion of the European Parliament of 18 November 1992 \(OJ No C 337, 21. 12. 1992, p. 145\).](#)
[Council common position of 22 December 1993 \(OJ No C 101, 9. 4. 1994, p. 14\)](#) and [Decision of the European Parliament of 9 March 1994](#) (not yet published in the Official Journal).
- (4) [OJ No C 241, 25. 9. 1986, p. 1.](#)
- (5) [OJ No L 297, 29. 10. 1990, p. 1.](#)
- (6) [OJ No L 199, 9. 8. 1993, p. 84.](#)