

## Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances (repealed)

### *Article 1*

#### **Aim**

This Directive is aimed 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.

### *Article 2*

#### **Scope**

1 The Directive shall apply to establishments where dangerous substances are present in quantities equal to or in excess of the quantities listed in Annex I, Parts 1 and 2, column 2, with the exception of Articles 9, 11 and 13 which shall apply to any establishment where dangerous substances are present in quantities equal to or in excess of the quantities listed in Annex I, Parts 1 and 2, column 3.

For the purposes of this Directive, the ‘presence of dangerous substances’ shall mean the actual or anticipated presence of such substances in the establishment, or the presence of those which it is believed may be generated during loss of control of an industrial chemical process, in quantities equal to or in excess of the thresholds in Parts 1 and 2 of Annex I.

2 The provisions of this Directive shall apply without prejudice to Community provisions concerning the working environment, and, in particular, without prejudice to Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work<sup>(1)</sup>.

### *Article 3*

#### **Definitions**

For the purposes of this Directive:

1. ‘establishment’ shall mean the whole area under the control of an operator where dangerous substances are present in one or more installations, including common or related infrastructures or activities;
2. ‘installation’ shall mean a technical unit within an establishment in which dangerous substances are produced, used, handled or stored. It shall include all the equipment, structures, pipework, machinery, tools, private railway sidings, docks, unloading quays serving the installation, jetties, warehouses or similar structures, floating or otherwise, necessary for the operation of the installation;
3. ‘operator’ shall mean any individual or corporate body who operates or holds an establishment or installation or, if provided for by national legislation, has been given decisive economic power in the technical operation thereof;

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4. 'dangerous substance' shall mean a substance, mixture or preparation listed in Annex 1, Part 1, or fulfilling the criteria laid down in Annex 1, Part 2, and present as a raw material, product, by-product, residue or intermediate, including those substances which it is reasonable to suppose may be generated in the event of accident;
5. 'major accident' shall mean an occurrence such as a major emission, fire, or explosion resulting from uncontrolled developments in the course of the operation of any establishment covered by this Directive, and leading to serious danger to human health and/or the environment, immediate or delayed, inside or outside the establishment, and involving one or more dangerous substances;
6. 'hazard' shall mean the intrinsic property of a dangerous substance or physical situation, with a potential for creating damage to human health and/or the environment;
7. 'risk' shall mean the likelihood of a specific effect occurring within a specified period or in specified circumstances;
8. 'storage' shall mean the presence of a quantity of dangerous substances for the purposes of warehousing, depositing in safe custody or keeping in stock.

#### Article 4

#### Exclusions

This Directive shall not apply to the following:

- (a) military establishments, installations or storage facilities;
- (b) hazards created by ionizing radiation;
- (c) the transport of dangerous substances and intermediate temporary storage by road, rail, internal waterways, sea or air, outside the establishments covered by this Directive, including loading and unloading and transport to and from another means of transport at docks, wharves or marshalling yards;
- (d) the transport of dangerous substances in pipelines, including pumping stations, outside establishments covered by this Directive;
- (e) [<sup>F1</sup>the exploitation (exploration, extraction and processing) of minerals in mines, quarries, or by means of boreholes, with the exception of chemical and thermal processing operations and storage related to those operations which involve dangerous substances, as defined in Annex I;
- (f) the offshore exploration and exploitation of minerals, including hydrocarbons;]
- (g) [<sup>F2</sup>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, in particular when used in connection with the chemical and thermal processing of minerals.]

#### Textual Amendments

- F1** Substituted by [Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.](#)

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**F2** Inserted by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.

## Article 5

### General obligations of the operator

- 1 Member States shall ensure that the operator is obliged to take all measures necessary to prevent major accidents and to limit their consequences for man and the environment.
- 2 Member States shall ensure that the operator is required to prove to the competent authority referred to in Article 16, hereinafter referred to as the ‘competent authority’, at any time, in particular for the purposes of the inspections and controls referred to in Article 18, that he has taken all the measures necessary as specified in this Directive.

## Article 6

### Notification

- 1 Member States shall require the operator to send the competent authority a notification within the following time-limits:
  - for new establishments, a reasonable period of time prior to the start of construction or operation,
  - for existing establishments, one year from the date laid down in Article 24 (1)<sup>[F1]</sup>,
  - <sup>[F2]</sup>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).]
- 2 The notification required by paragraph 1 shall contain the following details:
  - a the name or trade name of the operator and the full address of the establishment concerned;
  - b the registered place of business of the operator, with the full address;
  - c the name or position of the person in charge of the establishment, if different from (a);
  - d information sufficient to identify the dangerous substances or category of substances involved;
  - e the quantity and physical form of the dangerous substance or substances involved;
  - f the activity or proposed activity of the installation or storage facility;
  - g the immediate environment of the establishment (elements liable to cause a major accident or to aggravate the consequences thereof).
- 3 In the case of existing establishments for which the operator has already provided all the information under paragraph 2 to the competent authority under the requirements of national law at the date of entry into force of this Directive, notification under paragraph 1 is not required.
- 4 In the event of:
  - any significant increase in the quantity or significant change in the nature or physical form of the dangerous substance present, as indicated in the notification provided by the operator pursuant to paragraph 2, or any change in the processes employing it,<sup>[F3]</sup> or]

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- [F<sup>2</sup>modification of an establishment or an installation which could have significant repercussions on major accident hazards, or]
- permanent closure of the installation,

the operator shall immediately inform the competent authority of the change in the situation.

#### Textual Amendments

- F1** Substituted by [Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.](#)
- F2** Inserted by [Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.](#)
- F3** Deleted by [Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.](#)

### Article 7

#### Major-accident prevention policy

1 Member States shall require the operator to draw up a document setting out his major-accident prevention policy and to ensure that it is properly implemented. The major-accident prevention policy established by the operator shall be designed to guarantee a high level of protection for man and the environment by appropriate means, structures and management systems.

[F<sup>2</sup>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).]

2 The document must take account of the principles contained in Annex III and be made available to the competent authorities for the purposes of, amongst other things, implementation of Articles 5 (2) and 18.

3 This Article shall not apply to the establishments referred to in Article 9.

#### Textual Amendments

- F2** Inserted by [Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.](#)

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## Article 8

### Domino effect

1 Member States shall ensure that the competent authority, using the information received from the operators in compliance with Articles 6 and 9, identifies establishments or groups of establishments where the likelihood and the possibility or consequences of a major accident may be increased because of the location and the proximity of such establishments, and their inventories of dangerous substances.

2 Member States must ensure that in the case of the establishments thus identified:

a suitable information is exchanged in an appropriate manner to enable these establishments to take account of the nature and extent of the overall hazard of a major accident in their major accident prevention policies, safety management systems, safety reports and internal emergency plans;

[<sup>F1</sup>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.]

#### Textual Amendments

**F1** Substituted by [Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.](#)

## Article 9

### Safety report

1 Member States shall require the operator to produce a safety report for the purposes of:

a demonstrating that a major-accident prevention policy and a safety management system for implementing it have been put into effect in accordance with the information set out in Annex III;

b demonstrating that major-accident hazards have been identified and that the necessary measures have been taken to prevent such accidents and to limit their consequences for man and the environment;

c demonstrating that adequate safety and reliability have been incorporated into the design, construction, operation and maintenance of any installation, storage facility, equipment and infrastructure connected with its operation which are linked to major-accident hazards inside the establishment;

b demonstrating that internal emergency plans have been drawn up and supplying information to enable the external plan to be drawn up in order to take the necessary measures in the event of a major accident;

e providing sufficient information to the competent authorities to enable decisions to be made in terms of the siting of new activities or developments around existing establishments.

[<sup>F12</sup> 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.]

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Safety reports, or parts of reports, or any other equivalent reports produced in response to other legislation, may be combined to form a single safety report for the purposes of this Article, where such a format obviates the unnecessary duplication of information and the repetition of work by the operator or competent authority, on condition that all the requirements of this Article are complied with.

3 The safety report provided for in paragraph 1 shall be sent to the competent authority within the following time limits:

- for new establishments, a reasonable period of time prior to the start of construction or of operation,
- for existing establishments not previously covered by Directive 82/501/EEC, three years from the date laid down in Article 24 (1),
- for other establishments, two years from the date laid down in Article 24 (1),
- [<sup>F2</sup>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).]
- in the case of the periodic reviews provided for in paragraph 5, without delay.

4 Before the operator commences construction or operation, or in the cases referred to in [<sup>F1</sup>the second, third, fourth and fifth indents] of paragraph 3, the competent authority shall within a reasonable period of receipt of the report:

- communicate the conclusions of its examination of the safety report to the operator, if necessary after requesting further information, or
- prohibit the bringing into use, or the continued use, of the establishment concerned, in accordance with the powers and procedures laid down in Article 17.

5 The safety report shall be periodically reviewed and where necessary updated:

- at least every five years,
- at any other time at the initiative of the operator or the request of the competent authority, where justified by new facts or to take account of new technical knowledge about safety matters, for example arising from analysis of accidents or, as far as possible, ‘near misses’, and of developments in knowledge concerning the assessment of hazards.

6

a Where it is demonstrated to the satisfaction of the competent authority that particular substances present at the establishment, or any part thereof, are in a state incapable of creating a major-accident hazard, then the Member State may, in accordance with the criteria referred to in subparagraph (b), limit the information required in safety reports to those matters which are relevant to the prevention of residual major-accident hazards and the limitation of their consequences for man and the environment.

[<sup>F4</sup>b The Commission shall establish harmonised criteria for decisions of the competent authority that an establishment is in a state incapable of creating a major accident hazard within the meaning of subparagraph (a). Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3).]

c Member States shall ensure that the competent authority communicates a list of the establishments concerned to the Commission, giving reasons. The Commission shall forward the lists annually to the Committee referred to in Article 22.

[<sup>F2</sup>d The Commission is invited to review by 31 December 2006 in close cooperation with the Member States, the existing ‘Guidance on the Preparation of a Safety Report’.]

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### Textual Amendments

- F1** Substituted by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.
- F2** Inserted by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.
- F4** Substituted by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part One.

### Article 10

#### Modification of an installation, an establishment or a storage facility

In the event of the modification of an installation, establishment, storage facility, or process or of the nature or quantity of dangerous substances which could have significant repercussions on major-accident hazards, the Member States shall ensure that the operator:

- reviews and where necessary revises the major-accident prevention policy, and the management systems and procedures referred to in Articles 7 and 9,
- reviews, and where necessary revises, the safety report and informs the competent authority referred to in Article 16 of the details of such revision in advance of such modification.

### Article 11

#### Emergency plans

- 1 Member States shall ensure that, for all establishments to which Article 9 applies:
  - a the operator draws up an internal emergency plan for the measures to be taken inside the establishment,
    - for new establishments, prior to commencing operation,
    - for existing establishments not previously covered by Directive 82/501/EEC, three years from the date laid down in Article 24 (1),
    - for other establishments, two years from the date laid down in Article 24 (1)<sup>[F1]</sup>,
    - <sup>[F2]</sup>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 the operator supplies to the competent authorities, to enable the latter to draw up external emergency plans, the necessary information within the following periods of time:
    - for new establishments, prior to the start of operation,
    - for existing establishments not previously covered by Directive 82/501/EEC, three years from the date laid down in Article 24 (1),

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- for other establishments, two years from the date laid down in Article 24 (1)<sup>[F1]</sup>;
  - <sup>[F2]</sup>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 the authorities designated for that purpose by the Member State draw up an external emergency plan for the measures to be taken outside the establishment.
- 2 The emergency plans must be established with the objectives of:
- containing and controlling incidents so as to minimize the effects, and to limit damage to man, the environment and property,
  - implementing the measures necessary to protect man and the environment from the effects of major accidents,
  - communicating the necessary information to the public and to the services or authorities concerned in the area,
  - providing for the restoration and clean-up of the environment following a major accident.

Emergency plans shall contain the information set out in Annex IV.

<sup>[F13]</sup> 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.]

4 Member States shall ensure that internal and external emergency plans are reviewed, tested, and where necessary revised and updated by the operators and designated authorities at suitable intervals of no longer than three years. The review shall take into account changes occurring in the establishments concerned or within the emergency services concerned, new technical knowledge, and knowledge concerning the response to major accidents.

<sup>[F24a]</sup> 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.]

5 Member States shall ensure that emergency plans are put into effect without delay by the operator and, if necessary by the competent authority designated for this purpose:

- when a major accident occurs, or
- when an uncontrolled event occurs which by its nature could reasonably be expected to lead to a major accident.

6 The competent authority may decide, giving reasons for its decision, in view of the information contained in the safety report, that the requirement to produce an external emergency plan under paragraph 1 shall not apply.

#### Textual Amendments

- F1** Substituted by [Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.](#)



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**F2** Inserted by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.

## Article 12

### Land-use planning

1 Member States shall ensure that the objectives of preventing major accidents and limiting the consequences of such accidents are taken into account in their land-use policies and/or other relevant policies. They shall pursue those objectives through controls on:

- a the siting of new establishments,
- b modifications to existing establishments covered by Article 10,
- c new developments such as transport links, locations frequented by the public and residential areas in the vicinity of existing establishments, where the siting or developments are such as to increase the risk or consequences of a major accident.

[<sup>F1</sup>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.]

[<sup>F2</sup>1a The Commission is invited by 31 December 2006, in close cooperation with the Member States, to draw up guidelines defining a technical database including risk data and risk scenarios, to be used for assessing the compatibility between the establishments covered by this Directive and the areas described in paragraph 1. The definition of this database shall as far as possible take account of the evaluations made by the competent authorities, the information obtained from operators and all other relevant information such as the socioeconomic benefits of development and the mitigating effects of emergency plans.]

2 Member States shall ensure that all competent authorities and planning authorities responsible for decisions in this area set up appropriate consultation procedures to facilitate implementation of the policies established under paragraph 1. The procedures shall be designed to ensure that technical advice on the risks arising from the establishment is available, either on a case-by-case or on a generic basis, when decisions are taken.

#### Textual Amendments

- F1** Substituted by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.
- F2** Inserted by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.

### Article 13

#### Information on safety measures

[<sup>F1</sup> 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.]

The information shall be reviewed every three years and, where necessary, repeated and updated, at least if there is any modification within the meaning of Article 10. It shall also be made permanently available to the public. The maximum period between the repetition of the information to the public shall, in any case, be no longer than five years.

Such information shall contain, at least, the information listed in Annex V.

2 Member States shall, with respect to the possibility of a major accident with transboundary effects originating in an establishment under Article 9, provide sufficient information to the potentially affected Member States so that all relevant provisions contained in Articles 11, 12 and this Article can be applied, where applicable, by the affected Member State.

3 Where the Member State concerned has decided that an establishment close to the territory of another Member State is incapable of creating a major-accident hazard beyond its boundary for the purposes of Article 11 (6) and is not therefore required to produce an external emergency plan under Article 11 (1), it shall so inform the other Member State.

4 Member States shall ensure that the safety report is made available to the public. The operator may ask the competent authority not to disclose to the public certain parts of the report, for reasons of industrial, commercial or personal confidentiality, public security or national defence. In such cases, on the approval of the competent authority, the operator shall supply to the authority, and make available to the public, an amended report excluding those matters.

5 Member States shall ensure that the public is able to give its opinion in the following cases:

- planning for new establishments covered by Article 9,
- modifications to existing establishments under Article 10, where such modifications are subject to obligations provided for in this Directive as to planning,
- developments around such existing establishments.

[<sup>F16</sup> 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.]

#### Textual Amendments

- F1** Substituted by [Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.](#)

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#### Article 14

##### **Information to be supplied by the operator following a major accident**

- 1 Member States shall ensure that, as soon as practicable following a major accident, the operator shall be required, using the most appropriate means:
  - a to inform the competent authorities;
  - b to provide them with the following information as soon as it becomes available:
    - the circumstances of the accident,
    - the dangerous substances involved,
    - the data available for assessing the effects of the accident on man and the environment, and
    - the emergency measures taken;
  - c to inform them of the steps envisaged:
    - to alleviate the medium- and long-term effects of the accident,
    - to prevent any recurrence of such an accident;
  - d to update the information provided if further investigation reveals additional facts which alter that information or the conclusions drawn.
- 2 Member States shall require the competent authority:
  - a to ensure that any urgent, medium- and long-term measures which may prove necessary are taken;
  - b to collect, by inspection, investigation or other appropriate means, the information necessary for a full analysis of the technical, organizational and managerial aspects of the major accident;
  - c to take appropriate action to ensure that the operator takes any necessary remedial measures; and
  - d to make recommendations on future preventive measures.

#### Article 15

##### **Information to be supplied by the Member States to the Commission**

- 1 For the purpose of prevention and mitigation of major accidents, Member States shall inform the Commission as soon as practicable of major accidents meeting the criteria of Annex VI which have occurred within their territory. They shall provide it with the following details:
  - a the Member State, the name and address of the authority responsible for the report;
  - b the date, time and place of the major accident, including the full name of the operator and the address of the establishment involved;
  - c a brief description of the circumstances of the accident, including the dangerous substances involved, and the immediate effects on man and the environment;
  - d a brief description of the emergency measures taken and of the immediate precautions necessary to prevent recurrence.

<sup>[F42]</sup> Member States shall, as soon as the information provided for in Article 14 is collected, inform the Commission of the result of their analysis and recommendations using a report form established and kept under review by means of the regulatory procedure referred to in Article 22(2).

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Reporting of this information by Member States may be delayed only to allow for the completion of legal proceedings where such reporting is liable to affect those proceedings.]

3 Member States shall inform the Commission of the name and address of any body which might have relevant information on major accidents and which is able to advise the competent authorities of other Member States which have to intervene in the event of such an accident.

#### **Textual Amendments**

- F4** Substituted by [Regulation \(EC\) No 1137/2008 of the European Parliament and of the Council of 22 October 2008](#) adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny  
Adaptation to the regulatory procedure with scrutiny — Part One.

### *Article 16*

#### **Competent authority**

Without prejudice to the operator's responsibilities, Member States shall set up or appoint the competent authority or authorities responsible for carrying out the duties laid down in this Directive and, if necessary, bodies to assist the competent authority or authorities at technical level.

### *Article 17*

#### **Prohibition of use**

1 Member States shall prohibit the use or bringing into use of any establishment, installation or storage facility, or any part thereof where the measures taken by the operator for the prevention and mitigation of major accidents are seriously deficient.

Member States may prohibit the use or bringing into use of any establishment, installation or storage facility, or any part thereof if the operator has not submitted the notification, reports or other information required by this Directive within the specified period.

2 Member States shall ensure that operators may appeal against a prohibition order by a competent authority under paragraph 1 to an appropriate body determined by national law and procedures.

### *Article 18*

#### **Inspections**

1 Member States shall ensure that the competent authorities organize a system of inspections, or other measures of control appropriate to the type of establishment concerned. Those inspections or control measures shall not be dependent upon receipt of the safety report or any other report submitted. Such inspections or other control measures shall be sufficient

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for a planned and systematic examination of the systems being employed at the establishment, whether of a technical, organizational or managerial nature, so as to ensure in particular:

- that the operator can demonstrate that he has taken appropriate measures, in connection with the various activities involved in the establishment, to prevent major accidents,
- that the operator can demonstrate that he has provided appropriate means for limiting the consequences of major accidents, on site and off site,
- that the data and information contained in the safety report, or any other report submitted, adequately reflects the conditions in the establishment,
- that information has been supplied to the public pursuant to Article 13 (1).

2 The system of inspection specified in paragraph 1 shall comply with the following conditions:

- a there shall be a programme of inspections for all establishments. Unless the competent authority has established a programme of inspections based upon a systematic appraisal of major-accident hazards of the particular establishment concerned, the programme shall entail at least one on-site inspection made by the competent authority every twelve months of each establishment covered by Article 9;
- b following each inspection, a report shall be prepared by the competent authority;
- c where necessary, every inspection carried out by the competent authority shall be followed up with the management of the establishment, within a reasonable period following the inspection.

3 The competent authority may require the operator to provide any additional information necessary to allow the authority fully to assess the possibility of a major accident and to determine the scope of possible increased probability and/or aggravation of major accidents, to permit the preparation of an external emergency plan, and to take substances into account which, due to their physical form, particular conditions or location, may require additional consideration.

## *Article 19*

### **Information system and exchanges**

1 Member States and the Commission shall exchange information on the experience acquired with regard to the prevention of major accidents and the limitation of their consequences. This information shall concern, in particular, the functioning of the measures provided for in this Directive.

[<sup>F2</sup>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.]

2 The Commission shall set up and keep at the disposal of Member States a register and information system containing, in particular, details of the major accidents which have occurred within the territory of Member States, for the purpose of:

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- a the rapid dissemination of the information supplied by Member States pursuant to Article 15 (1) among all competent authorities;
- b distribution to competent authorities of an analysis of the causes of major accidents and the lessons learned from them;
- c supply of information to competent authorities on preventive measures;
- d provision of information on organizations able to provide advice or relevant information on the occurrence, prevention and mitigation of major accidents.

The register and information system shall contain, at least:

- a the information supplied by Member States in compliance with Article 15 (1);
- b an analysis of the causes of the accidents;
- c the lessons learned from the accidents;
- d the preventive measures necessary to prevent a recurrence.

3 Without prejudice to Article 20, access to the register and information system shall be open to government departments of the Member States, industry or trade associations, trade unions, non-governmental organizations in the field of the protection of the environment and other international or research organizations working in the field.

4 Member States shall provide the Commission with a three-yearly report in accordance with the procedure laid down in Council Directive 91/692/EEC of 23 December 1991 standardizing and rationalizing reports on the implementation of certain Directives relating to the environment<sup>(2)</sup> for establishments covered by Articles 6 and 9. The Commission shall publish a summary of this information every three years.

#### Textual Amendments

- F2** Inserted by [Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances](#).

### Article 20

#### Confidentiality

1 Member States shall ensure, in the interests of transparency, that the competent authorities are required to make information received pursuant to this Directive available to any natural or legal person who so requests.

Information obtained by the competent authorities or the Commission may, where national provisions so require, be kept confidential if it calls into question:

- the confidentiality of the deliberations of the competent authorities and the Commission,
- the confidentiality of international relations and national defence,
- public security,
- the confidentiality of preliminary investigation proceedings or of current legal proceedings,
- commercial and industrial secrets, including intellectual property,
- personal data and/or files,
- data supplied by a third party if that party asks for them to be kept confidential.

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2 This Directive shall not preclude the conclusion by a Member State of agreements with third countries on the exchange of information to which it is privy at internal level.

### *[<sup>F4</sup>Article 21*

#### **Terms of reference of the Committee**

1 The Commission shall adapt the criteria referred to in Article 9(6)(b) and Annexes II to VI to technical progress.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3).

2 The measure to draw up the report form referred to in Article 15(2) shall be adopted in accordance with the regulatory procedure referred to in Article 22(2).]

#### **Textual Amendments**

**F4** Substituted by [Regulation \(EC\) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part One.](#)

### *[<sup>F4</sup>Article 22*

#### **Committee procedure**

1 The Commission shall be assisted by a 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 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.]

#### **Textual Amendments**

**F4** Substituted by [Regulation \(EC\) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part One.](#)

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### *Article 23*

#### **Repeal of Directive 82/501/EEC**

1 Directive 82/501/EEC shall be repealed 24 months after the entry into force of this Directive.

2 Notifications, emergency plans and information for the public presented or drawn up pursuant to Directive 82/501/EEC shall remain in force until such time as they are replaced under the corresponding provisions of this Directive.

### *Article 24*

#### **Implementation**

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 24 months after its entry into force. 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 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 main provisions of domestic law which they adopt in the field governed by this Directive.

### *Article 25*

#### **Entry into force**

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

### *Article 26*

This Directive is addressed to the Member States.



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- (1) OJ No L 183, 29.6.1989, p. 1.
- (2) OJ No L 377, 31.12.1991, p. 48.