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**COUNCIL DIRECTIVE**  
**of 27 June 1985**  
**on the assessment of the effects of certain public and private projects on the environment**  
**(85/337/EEC)**  
**(OJ L 175, 5.7.1985, p. 40)**

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► <b>M1</b> Council Directive 97/11/EC of 3 March 1997	L 73	5	14.3.1997
► <b>M2</b> Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003	L 156	17	25.6.2003

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**COUNCIL DIRECTIVE****of 27 June 1985****on the assessment of the effects of certain public and private projects on the environment****(85/337/EEC)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,Having regard to the opinion of the European Parliament <sup>(2)</sup>,Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas the 1973 <sup>(4)</sup> and 1977 <sup>(5)</sup> action programmes of the European Communities on the environment, as well as the 1983 <sup>(6)</sup> action programme, the main outlines of which have been approved by the Council of the European Communities and the representatives of the Governments of the Member States, stress that the best environmental policy consists in preventing the creation of pollution or nuisances at source, rather than subsequently trying to counteract their effects; whereas they affirm the need to take effects on the environment into account at the earliest possible stage in all the technical planning and decision-making processes; whereas to that end, they provide for the implementation of procedures to evaluate such effects;

Whereas the disparities between the laws in force in the various Member States with regard to the assessment of the environmental effects of public and private projects may create unfavourable competitive conditions and thereby directly affect the functioning of the common market; whereas, therefore, it is necessary to approximate national laws in this field pursuant to Article 100 of the Treaty;

Whereas, in addition, it is necessary to achieve one of the Community's objectives in the sphere of the protection of the environment and the quality of life;

Whereas, since the Treaty has not provided the powers required for this end, recourse should be had to Article 235 of the Treaty;

Whereas general principles for the assessment of environmental effects should be introduced with a view to supplementing and coordinating development consent procedures governing public and private projects likely to have a major effect on the environment;

Whereas development consent for public and private projects which are likely to have significant effects on the environment should be granted only after prior assessment of the likely significant environmental effects of these projects has been carried out; whereas this assessment must be conducted on the basis of the appropriate information supplied by the developer, which may be supplemented by the authorities and by the people who may be concerned by the project in question;

Whereas the principles of the assessment of environmental effects should be harmonized, in particular with reference to the projects which should be subject to assessment, the main obligations of the developers and the content of the assessment;

<sup>(1)</sup> OJ No C 169, 9. 7. 1980, p. 14.

<sup>(2)</sup> OJ No C 66, 15. 3. 1982, p. 89.

<sup>(3)</sup> OJ No C 185, 27. 7. 1981, p. 8.

<sup>(4)</sup> OJ No C 112, 20. 12. 1973, p. 1.

<sup>(5)</sup> OJ No C 139, 13. 6. 1977, p. 1.

<sup>(6)</sup> OJ No C 46, 17. 2. 1983, p. 1.

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Whereas projects belonging to certain types have significant effects on the environment and these projects must as a rule be subject to systematic assessment;

Whereas projects of other types may not have significant effects on the environment in every case and whereas these projects should be assessed where the Member States consider that their characteristics so require;

Whereas, for projects which are subject to assessment, a certain minimal amount of information must be supplied, concerning the project and its effects;

Whereas the effects of a project on the environment must be assessed in order to take account of concerns to protect human health, to contribute by means of a better environment to the quality of life, to ensure maintenance of the diversity of species and to maintain the reproductive capacity of the ecosystem as a basic resource for life;

Whereas, however, this Directive should not be applied to projects the details of which are adopted by a specific act of national legislation, since the objectives of this Directive, including that of supplying information, are achieved through the legislative process;

Whereas, furthermore, it may be appropriate in exceptional cases to exempt a specific project from the assessment procedures laid down by this Directive, subject to appropriate information being supplied to the Commission,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

1. This Directive shall apply to the assessment of the environmental effects of those public and private projects which are likely to have significant effects on the environment.

2. For the purposes of this Directive:

‘project’ means:

- the execution of construction works or of other installations or schemes,
- other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources;

‘developer’ means:

the applicant for authorization for a private project or the public authority which initiates a project;

‘development consent’ means:

the decision of the competent authority or authorities which entitles the developer to proceed with the project;

**▼M2**

‘public’ means:

one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organisations or groups;

‘public concerned’ means:

the public affected or likely to be affected by, or having an interest in, the environmental decision-making procedures referred to in Article 2(2); for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest.

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3. The competent authority or authorities shall be that or those which the Member States designate as responsible for performing the duties arising from this Directive.

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4. Member States may decide, on a case-by-case basis if so provided under national law, not to apply this Directive to projects serving national defence purposes, if they deem that such application would have an adverse effect on these purposes.

**▼B**

5. This Directive shall not apply to projects the details of which are adopted by a specific act of national legislation, since the objectives of this Directive, including that of supplying information, are achieved through the legislative process.

*Article 2***▼M1**

1. Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects. These projects are defined in Article 4.

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2. The environmental impact assessment may be integrated into the existing procedures for consent to projects in the Member States, or, failing this, into other procedures or into procedures to be established to comply with the aims of this Directive.

**▼M1**

2a. Member States may provide for a single procedure in order to fulfil the requirements of this Directive and the requirements of Council Directive 96/61/EC of 24 September 1996 on integrated pollution prevention and control <sup>(1)</sup>.

3. Without prejudice to Article 7, Member States may, in exceptional cases, exempt a specific project in whole or in part from the provisions laid down in this Directive.

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In this event, the Member States shall:

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- (a) consider whether another form of assessment would be appropriate;
- (b) make available to the public concerned the information obtained under other forms of assessment referred to in point (a), the information relating to the exemption decision and the reasons for granting it;

**▼B**

- (c) inform the Commission, prior to granting consent, of the reasons justifying the exemption granted, and provide it with the information made available, ►M1 where applicable ◀, to their own nationals.

The Commission shall immediately forward the documents received to the other Member States.

The Commission shall report annually to the Council on the application of this paragraph.

**▼M1***Article 3*

The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11, the direct and indirect effects of a project on the following factors:

- human beings, fauna and flora;
- soil, water, air, climate and the landscape;
- material assets and the cultural heritage;

<sup>(1)</sup> OJ No L 257, 10. 10. 1996, p. 26.

## ▼M1

— the interaction between the factors mentioned in the first, second and third indents.

*Article 4*

1. Subject to Article 2 (3), projects listed in Annex I shall be made subject to an assessment in accordance with Articles 5 to 10.

2. Subject to Article 2 (3), for projects listed in Annex II, the Member States shall determine through:

- (a) a case-by-case examination,
- or
- (b) thresholds or criteria set by the Member State

whether the project shall be made subject to an assessment in accordance with Articles 5 to 10.

Member States may decide to apply both procedures referred to in (a) and (b).

3. When a case-by-case examination is carried out or thresholds or criteria are set for the purpose of paragraph 2, the relevant selection criteria set out in Annex III shall be taken into account.

4. Member States shall ensure that the determination made by the competent authorities under paragraph 2 is made available to the public.

*Article 5*

1. In the case of projects which, pursuant to Article 4, must be subjected to an environmental impact assessment in accordance with Articles 5 to 10, Member States shall adopt the necessary measures to ensure that the developer supplies in an appropriate form the information specified in Annex IV inasmuch as:

- (a) the Member States consider that the information is relevant to a given stage of the consent procedure and to the specific characteristics of a particular project or type of project and of the environmental features likely to be affected;
- (b) the Member States consider that a developer may reasonably be required to compile this information having regard *inter alia* to current knowledge and methods of assessment.

2. Member States shall take the necessary measures to ensure that, if the developer so requests before submitting an application for development consent, the competent authority shall give an opinion on the information to be supplied by the developer in accordance with paragraph 1. The competent authority shall consult the developer and authorities referred to in Article 6 (1) before it gives its opinion. The fact that the authority has given an opinion under this paragraph shall not preclude it from subsequently requiring the developer to submit further information.

Member States may require the competent authorities to give such an opinion, irrespective of whether the developer so requests.

3. The information to be provided by the developer in accordance with paragraph 1 shall include at least:

- a description of the project comprising information on the site, design and size of the project,
- a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects,
- the data required to identify and assess the main effects which the project is likely to have on the environment,
- an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects,
- a non-technical summary of the information mentioned in the previous indents.

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4. Member States shall, if necessary, ensure that any authorities holding relevant information, with particular reference to Article 3, shall make this information available to the developer.

**▼B***Article 6***▼M1**

1. Member States shall take the measures necessary to ensure that the authorities likely to be concerned by the project by reason of their specific environmental responsibilities are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent. To this end, Member States shall designate the authorities to be consulted, either in general terms or on a case-by-case basis. The information gathered pursuant to Article 5 shall be forwarded to those authorities. Detailed arrangements for consultation shall be laid down by the Member States.

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2. The public shall be informed, whether by public notices or other appropriate means such as electronic media where available, of the following matters early in the environmental decision-making procedures referred to in Article 2(2) and, at the latest, as soon as information can reasonably be provided:

- (a) the request for development consent;
- (b) the fact that the project is subject to an environmental impact assessment procedure and, where relevant, the fact that Article 7 applies;
- (c) details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;
- (d) the nature of possible decisions or, where there is one, the draft decision;
- (e) an indication of the availability of the information gathered pursuant to Article 5;
- (f) an indication of the times and places where and means by which the relevant information will be made available;
- (g) details of the arrangements for public participation made pursuant to paragraph 5 of this Article.

3. Member States shall ensure that, within reasonable time-frames, the following is made available to the public concerned:

- (a) any information gathered pursuant to Article 5;
- (b) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public concerned is informed in accordance with paragraph 2 of this Article;
- (c) in accordance with the provisions of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information<sup>(1)</sup>, information other than that referred to in paragraph 2 of this Article which is relevant for the decision in accordance with Article 8 and which only becomes available after the time the public concerned was informed in accordance with paragraph 2 of this Article.

4. The public concerned shall be given early and effective opportunities to participate in the environmental decision-making procedures referred to in Article 2(2) and shall, for that purpose, be entitled to express comments and opinions when all options are open to the competent authority or authorities before the decision on the request for development consent is taken.

<sup>(1)</sup> OJ L 41, 14.2.2003, p. 26.

## ▼M2

5. The detailed arrangements for informing the public (for example by bill posting within a certain radius or publication in local newspapers) and for consulting the public concerned (for example by written submissions or by way of a public inquiry) shall be determined by the Member States.

6. Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to the provisions of this Article.

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*Article 7*

## ▼M2

1. Where a Member State is aware that a project is likely to have significant effects on the environment in another Member State or where a Member State likely to be significantly affected so requests, the Member State in whose territory the project is intended to be carried out shall send to the affected Member State as soon as possible and no later than when informing its own public, *inter alia*:

(a) a description of the project, together with any available information on its possible transboundary impact;

(b) information on the nature of the decision which may be taken,

and shall give the other Member State a reasonable time in which to indicate whether it wishes to participate in the environmental decision-making procedures referred to in Article 2(2), and may include the information referred to in paragraph 2 of this Article.

2. If a Member State which receives information pursuant to paragraph 1 indicates that it intends to participate in the environmental decision-making procedures referred to in Article 2(2), the Member State in whose territory the project is intended to be carried out shall, if it has not already done so, send to the affected Member State the information required to be given pursuant to Article 6(2) and made available pursuant to Article 6(3)(a) and (b).

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3. The Member States concerned, each insofar as it is concerned, shall also:

(a) arrange for the information referred to in paragraphs 1 and 2 to be made available, within a reasonable time, to the authorities referred to in Article 6 (1) and the public concerned in the territory of the Member State likely to be significantly affected; and

(b) ensure that those authorities and the public concerned are given an opportunity, before development consent for the project is granted, to forward their opinion within a reasonable time on the information supplied to the competent authority in the Member State in whose territory the project is intended to be carried out.

4. The Member States concerned shall enter into consultations regarding, *inter alia*, the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects and shall agree on a reasonable time frame for the duration of the consultation period.

## ▼M2

5. The detailed arrangements for implementing this Article may be determined by the Member States concerned and shall be such as to enable the public concerned in the territory of the affected Member State to participate effectively in the environmental decision-making procedures referred to in Article 2(2) for the project.

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*Article 8*

The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 must be taken into consideration in the development consent procedure.

▼ M1*Article 9*▼ M2

1. When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall inform the public thereof in accordance with the appropriate procedures and shall make available to the public the following information:

- the content of the decision and any conditions attached thereto,
- having examined the concerns and opinions expressed by the public concerned, the main reasons and considerations on which the decision is based, including information about the public participation process,
- a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects.

2. The competent authority or authorities shall inform any Member State which has been consulted pursuant to Article 7, forwarding to it the information referred to in paragraph 1 of this Article.

The consulted Member States shall ensure that that information is made available in an appropriate manner to the public concerned in their own territory.

▼ M1*Article 10*

The provisions of this Directive shall not affect the obligation on the competent authorities to respect the limitations imposed by national regulations and administrative provisions and accepted legal practices with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest.

Where Article 7 applies, the transmission of information to another Member State and the receipt of information by another Member State shall be subject to the limitations in force in the Member State in which the project is proposed.

▼ M2*Article 10a*

Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned:

- (a) having a sufficient interest, or alternatively,
- (b) maintaining the impairment of a right, where administrative procedural law of a Member State requires this as a precondition,

have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of this Directive.

Member States shall determine at what stage the decisions, acts or omissions may be challenged.

What constitutes a sufficient interest and impairment of a right shall be determined by the Member States, consistently with the objective of giving the public concerned wide access to justice. To this end, the interest of any non-governmental organisation meeting the requirements referred to in Article 1(2), shall be deemed sufficient for the purpose of subparagraph (a) of this Article. Such organisations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) of this Article.

The provisions of this Article shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

Any such procedure shall be fair, equitable, timely and not prohibitively expensive.



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In order to further the effectiveness of the provisions of this article, Member States shall ensure that practical information is made available to the public on access to administrative and judicial review procedures.

**▼B***Article 11*

1. The Member States and the Commission shall exchange information on the experience gained in applying this Directive.

**▼M1**

2. In particular, Member States shall inform the Commission of any criteria and/or thresholds adopted for the selection of the projects in question, in accordance with Article 4 (2).

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3. Five years after notification of this Directive, the Commission shall send the European Parliament and the Council a report on its application and effectiveness. The report shall be based on the aforementioned exchange of information.

4. On the basis of this exchange of information, the Commission shall submit to the Council additional proposals, should this be necessary, with a view to this Directive's being applied in a sufficiently coordinated manner.

*Article 12*

1. Member States shall take the measures necessary to comply with this Directive within three years of its notification <sup>(1)</sup>.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

**▼M1****▼B***Article 14*

This Directive is addressed to the Member States.

<sup>(1)</sup> This Directive was notified to the Member States on 3 July 1985.

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## ANNEX I

## PROJECTS SUBJECT TO ARTICLE 4 (1)

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
2. — Thermal power stations and other combustion installations with a heat output of 300 megawatts or more, and
  - nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors (\*) (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
3. (a) Installations for the reprocessing of irradiated nuclear fuel.
  - (b) Installations designed:
    - for the production or enrichment of nuclear fuel,
    - for the processing of irradiated nuclear fuel or high-level radioactive waste,
    - for the final disposal of irradiated nuclear fuel,
    - solely for the final disposal of radioactive waste,
    - solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.
4. — Integrated works for the initial smelting of cast-iron and steel;
  - Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20 000 tonnes of finished products, for friction material, with an annual production of more than 50 tonnes of finished products, and for other uses of asbestos, utilization of more than 200 tonnes per year.
6. Integrated chemical installations, i.e. those installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are:
  - (i) for the production of basic organic chemicals;
  - (ii) for the production of basic inorganic chemicals;
  - (iii) for the production of phosphorous-, nitrogen- or potassium-based fertilizers (simple or compound fertilizers);
  - (iv) for the production of basic plant health products and of biocides;
  - (v) for the production of basic pharmaceutical products using a chemical or biological process;
  - (vi) for the production of explosives.
7. (a) Construction of lines for long-distance railway traffic and of airports (1) with a basic runway length of 2 100 m or more;
  - (b) Construction of motorways and express roads (2);
  - (c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be 10 km or more in a continuous length.
8. (a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1 350 tonnes;

(\*) Nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.

(1) For the purposes of this Directive, 'airport' means airports which comply with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organization (Annex 14).

(2) For the purposes of the Directive, 'express road' means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975.

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- (b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1 350 tonnes.
- 9. Waste disposal installations for the incineration, chemical treatment as defined in Annex IIA to Directive 75/442/EEC <sup>(1)</sup> under heading D9, or landfill of hazardous waste (i.e. waste to which Directive 91/689/EEC <sup>(2)</sup> applies).
- 10. Waste disposal installations for the incineration or chemical treatment as defined in Annex IIA to Directive 75/442/EEC under heading D9 of non-hazardous waste with a capacity exceeding 100 tonnes per day.
- 11. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.
- 12. (a) Works for the transfer of water resources between river basins where this transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year;
- (b) In all other cases, works for the transfer of water resources between river basins where the multi-annual average flow of the basin of abstraction exceeds 2 000 million cubic metres/year and where the amount of water transferred exceeds 5 % of this flow.

In both cases transfers of piped drinking water are excluded.

- 13. Waste water treatment plants with a capacity exceeding 150 000 population equivalent as defined in Article 2 point (6) of Directive 91/271/EEC <sup>(3)</sup>.
- 14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes/day in the case of petroleum and 500 000 m<sup>3</sup>/day in the case of gas.
- 15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
- 16. Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 mm and a length of more than 40 km.
- 17. Installations for the intensive rearing of poultry or pigs with more than:
  - (a) 85 000 places for broilers, 60 000 places for hens;
  - (b) 3 000 places for production pigs (over 30 kg); or
  - (c) 900 places for sows.
- 18. Industrial plants for the
  - (a) production of pulp from timber or similar fibrous materials;
  - (b) production of paper and board with a production capacity exceeding 200 tonnes per day.
- 19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.
- 20. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.
- 21. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200 000 tonnes or more.

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- 22. Any change to or extension of projects listed in this Annex where such a change or extension in itself meets the thresholds, if any, set out in this Annex.

<sup>(1)</sup> OJ No L 194, 25. 7. 1975, p. 39. Directive as last amended by Commission Decision 94/3/EC (OJ No L 5, 7. 1. 1994, p. 15).

<sup>(2)</sup> OJ No L 377, 31. 12. 1991, p. 20. Directive as last amended by Directive 94/31/EC (OJ No L 168, 2. 7. 1994, p. 28).

<sup>(3)</sup> OJ No L 135, 30. 5. 1991, p. 40. Directive as last amended by the 1994 Act of Accession.

**▼M1***ANNEX II***PROJECTS SUBJECT TO ARTICLE 4 (2)****1. Agriculture, silviculture and aquaculture**

- (a) Projects for the restructuring of rural land holdings;
- (b) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;
- (c) Water management projects for agriculture, including irrigation and land drainage projects;
- (d) Initial afforestation and deforestation for the purposes of conversion to another type of land use;
- (e) Intensive livestock installations (projects not included in Annex I);
- (f) Intensive fish farming;
- (g) Reclamation of land from the sea.

**2. Extractive industry**

- (a) Quarries, open-cast mining and peat extraction (projects not included in Annex I);
- (b) Underground mining;
- (c) Extraction of minerals by marine or fluvial dredging;
- (d) Deep drillings, in particular:
  - geothermal drilling,
  - drilling for the storage of nuclear waste material,
  - drilling for water supplies,with the exception of drillings for investigating the stability of the soil;
- (e) Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.

**3. Energy industry**

- (a) Industrial installations for the production of electricity, steam and hot water (projects not included in Annex I);
- (b) Industrial installations for carrying gas, steam and hot water; transmission of electrical energy by overhead cables (projects not included in Annex I);
- (c) Surface storage of natural gas;
- (d) Underground storage of combustible gases;
- (e) Surface storage of fossil fuels;
- (f) Industrial briquetting of coal and lignite;
- (g) Installations for the processing and storage of radioactive waste (unless included in Annex I);
- (h) Installations for hydroelectric energy production;
- (i) Installations for the harnessing of wind power for energy production (wind farms).

**4. Production and processing of metals**

- (a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting;
- (b) Installations for the processing of ferrous metals:
  - (i) hot-rolling mills;
  - (ii) smitheries with hammers;
  - (iii) application of protective fused metal coats;
- (c) Ferrous metal foundries;
- (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.);
- (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process;

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- (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines;
- (g) Shipyards;
- (h) Installations for the construction and repair of aircraft;
- (i) Manufacture of railway equipment;
- (j) Swaging by explosives;
- (k) Installations for the roasting and sintering of metallic ores.

**5. Mineral industry**

- (a) Coke ovens (dry coal distillation);
- (b) Installations for the manufacture of cement;
- (c) Installations for the production of asbestos and the manufacture of asbestos-products (projects not included in Annex I);
- (d) Installations for the manufacture of glass including glass fibre;
- (e) Installations for smelting mineral substances including the production of mineral fibres;
- (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.

**6. Chemical industry (Projects not included in Annex I)**

- (a) Treatment of intermediate products and production of chemicals;
- (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;
- (c) Storage facilities for petroleum, petrochemical and chemical products.

**7. Food industry**

- (a) Manufacture of vegetable and animal oils and fats;
- (b) Packing and canning of animal and vegetable products;
- (c) Manufacture of dairy products;
- (d) Brewing and malting;
- (e) Confectionery and syrup manufacture;
- (f) Installations for the slaughter of animals;
- (g) Industrial starch manufacturing installations;
- (h) Fish-meal and fish-oil factories;
- (i) Sugar factories.

**8. Textile, leather, wood and paper industries**

- (a) Industrial plants for the production of paper and board (projects not included in Annex I);
- (b) Plants for the pretreatment (operations such as washing, bleaching, mercerization) or dyeing of fibres or textiles;
- (c) Plants for the tanning of hides and skins;
- (d) Cellulose-processing and production installations.

**9. Rubber industry**

Manufacture and treatment of elastomer-based products.

**10. Infrastructure projects**

- (a) Industrial estate development projects;
- (b) Urban development projects, including the construction of shopping centres and car parks;
- (c) Construction of railways and intermodal transshipment facilities, and of intermodal terminals (projects not included in Annex I);
- (d) Construction of airfields (projects not included in Annex I);
- (e) Construction of roads, harbours and port installations, including fishing harbours (projects not included in Annex I);
- (f) Inland-waterway construction not included in Annex I, canalization and flood-relief works;

**▼M1**

- (g) Dams and other installations designed to hold water or store it on a long-term basis (projects not included in Annex I);
- (h) Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;
- (i) Oil and gas pipeline installations (projects not included in Annex I);
- (j) Installations of long-distance aqueducts;
- (k) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;
- (l) Groundwater abstraction and artificial groundwater recharge schemes not included in Annex I;
- (m) Works for the transfer of water resources between river basins not included in Annex I.

**11. Other projects**

- (a) Permanent racing and test tracks for motorized vehicles;
- (b) Installations for the disposal of waste (projects not included in Annex I);
- (c) Waste-water treatment plants (projects not included in Annex I);
- (d) Sludge-deposition sites;
- (e) Storage of scrap iron, including scrap vehicles;
- (f) Test benches for engines, turbines or reactors;
- (g) Installations for the manufacture of artificial mineral fibres;
- (h) Installations for the recovery or destruction of explosive substances;
- (i) Knackers' yards.

**12. Tourism and leisure**

- (a) Ski-runs, ski-lifts and cable-cars and associated developments;
- (b) Marinas;
- (c) Holiday villages and hotel complexes outside urban areas and associated developments;
- (d) Permanent camp sites and caravan sites;
- (e) Theme parks.

13. — Any change or extension of projects listed in Annex I or Annex II, already authorized, executed or in the process of being executed, which may have significant adverse effects on the environment ► **M2** (change or extension not included in Annex I) ◄;
- Projects in Annex I, undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.

▼M1

## ANNEX III

## SELECTION CRITERIA REFERRED TO IN ARTICLE 4 (3)

**1. Characteristics of projects**

The characteristics of projects must be considered having regard, in particular, to:

- the size of the project,
- the cumulation with other projects,
- the use of natural resources,
- the production of waste,
- pollution and nuisances,
- the risk of accidents, having regard in particular to substances or technologies used.

**2. Location of projects**

The environmental sensitivity of geographical areas likely to be affected by projects must be considered, having regard, in particular, to:

- the existing land use,
- the relative abundance, quality and regenerative capacity of natural resources in the area,
- the absorption capacity of the natural environment, paying particular attention to the following areas:
  - (a) wetlands;
  - (b) coastal zones;
  - (c) mountain and forest areas;
  - (d) nature reserves and parks;
  - (e) areas classified or protected under Member States' legislation; special protection areas designated by Member States pursuant to Directive 79/409/EEC and 92/43/EEC;
  - (f) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
  - (g) densely populated areas;
  - (h) landscapes of historical, cultural or archaeological significance.

**3. Characteristics of the potential impact**

The potential significant effects of projects must be considered in relation to criteria set out under 1 and 2 above, and having regard in particular to:

- the extent of the impact (geographical area and size of the affected population),
- the transfrontier nature of the impact,
- the magnitude and complexity of the impact,
- the probability of the impact,
- the duration, frequency and reversibility of the impact.

## ▼M1

## ANNEX IV

## INFORMATION REFERRED TO IN ARTICLE 5 (1)

1. Description of the project, including in particular:
  - a description of the physical characteristics of the whole project and the land-use requirements during the construction and operational phases,
  - a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used,
  - an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed project.
2. An outline of the main alternatives studied by the developer and an indication of the main reasons for this choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
4. A description<sup>(1)</sup> of the likely significant effects of the proposed project on the environment resulting from:
  - the existence of the project,
  - the use of natural resources,
  - the emission of pollutants, the creation of nuisances and the elimination of waste,and the description by the developer of the forecasting methods used to assess the effects on the environment.
5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
6. A non-technical summary of the information provided under the above headings.
7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the developer in compiling the required information.

<sup>(1)</sup> This description should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project.



This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

► **B**

**COUNCIL DIRECTIVE 96/61/EC**  
**of 24 September 1996**  
**concerning integrated pollution prevention and control**  
(OJ L 257 , 10.10.1996, p. 26)

Amended by:

		Official Journal	
	No	page	date
► <b>M1</b> Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003	L 156	17	25.6.2003
► <b>M2</b> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	L 275	32	25.10.2003
► <b>M3</b> Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003	L 284	1	31.10.2003
► <b>M4</b> Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006	L 33	1	4.2.2006



**COUNCIL DIRECTIVE 96/61/EC**

**of 24 September 1996**

**concerning integrated pollution prevention and control**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130s (1) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 189c of the Treaty <sup>(3)</sup>,

1. Whereas the objectives and principles of the Community's environment policy, as set out in Article 130r of the Treaty, consist in particular of preventing, reducing and as far as possible eliminating pollution by giving priority to intervention at source and ensuring prudent management of natural resources, in compliance with the 'polluter pays' principle and the principle of pollution prevention;
2. Whereas the Fifth Environmental Action Programme, the broad outline of which was approved by the Council and the Representatives of the Governments of the Member States, meeting within the Council, in the resolution of 1 February 1993 on a Community programme of policy and action in relation to the environment and sustainable development <sup>(4)</sup>, accords priority to integrated pollution control as an important part of the move towards a more sustainable balance between human activity and socio-economic development, on the one hand, and the resources and regenerative capacity of nature, on the other;
3. Whereas the implementation of an integrated approach to reduce pollution requires action at Community level in order to modify and supplement existing Community legislation concerning the prevention and control of pollution from industrial plants;
4. Whereas Council Directive 84/360/EEC of 28 June 1984 on the combating of air pollution from industrial plants <sup>(5)</sup> introduced a general framework requiring authorization prior to any operation or substantial modification of industrial installations which may cause air pollution;
5. Whereas Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community <sup>(6)</sup> introduced an authorization requirement for the discharge of those substances;
6. Whereas, although Community legislation exists on the combating of air pollution and the prevention or minimization of the discharge of dangerous substances into water, there is no comparable Community legislation aimed at preventing or minimizing emissions into soil;

<sup>(1)</sup> OJ No C 311, 17. 11. 1993, p. 6 and OJ No C 165, 1. 7. 1995, p. 9.

<sup>(2)</sup> OJ No C 195, 18. 7. 1995, p. 54.

<sup>(3)</sup> Opinion of the European Parliament of 14 December 1994 (OJ No C 18, 23. 1. 1995, p. 96), Council common position of 27 November 1995 (OJ No C 87, 25. 3. 1996, p. 8) and Decision of the European Parliament of 22 May 1996 (OJ No C 166, 10. 6. 1996).

<sup>(4)</sup> OJ No C 138, 17. 5. 1993, p. 1.

<sup>(5)</sup> OJ No L 188, 16. 7. 1984, p. 20. Directive as last amended by Directive 91/692/EEC (OJ No L 377, 31. 12. 1991, p. 48).

<sup>(6)</sup> OJ No L 129, 18. 5. 1976, p. 23. Directive as last amended by Directive 91/692/EEC.

## ▼B

7. Whereas different approaches to controlling emissions into the air, water or soil separately may encourage the shifting of pollution between the various environmental media rather than protecting the environment as a whole;
8. Whereas the objective of an integrated approach to pollution control is to prevent emissions into air, water or soil wherever this is practicable, taking into account waste management, and, where it is not, to minimize them in order to achieve a high level of protection for the environment as a whole;
9. Whereas this Directive establishes a general framework for integrated pollution prevention and control; whereas it lays down the measures necessary to implement integrated pollution prevention and control in order to achieve a high level of protection for the environment as a whole; whereas application of the principle of sustainable development will be promoted by an integrated approach to pollution control;
10. Whereas the provisions of this Directive apply without prejudice to the provisions of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of public and private projects on the environment <sup>(1)</sup>; whereas, when information or conclusions obtained further to the application of that Directive have to be taken into consideration for the granting of authorization, this Directive does not affect the implementation of Directive 85/337/EEC;
11. Whereas the necessary steps must be taken by the Member States in order to ensure that the operator of the industrial activities referred to in Annex I is complying with the general principles of certain basic obligations; whereas for that purpose it would suffice for the competent authorities to take those general principles into account when laying down the authorization conditions;
12. Whereas some of the provisions adopted pursuant to this Directive must be applied to existing installations after a fixed period and others as from the date of implementation of this Directive;
13. Whereas, in order to tackle pollution problems more effectively and efficiently, environmental aspects should be taken into consideration by the operator; whereas those aspects should be communicated to the competent authority or authorities so that they can satisfy themselves, before granting a permit, that all appropriate preventive or pollution-control measures have been laid down; whereas very different application procedures may give rise to different levels of environmental protection and public awareness; whereas, therefore, applications for permits under this Directive should include minimum data;
14. Whereas full coordination of the authorization procedure and conditions between competent authorities will make it possible to achieve the highest practicable level of protection for the environment as a whole;
15. Whereas the competent authority or authorities will grant or amend a permit only when integrated environmental protection measures for air, water and land have been laid down;
16. Whereas the permit is to include all necessary measures to fulfil the authorization conditions in order thus to achieve a high level of protection for the environment as a whole; whereas, without prejudice to the authorization procedure, those measures may also be the subject of general binding requirements;
17. Whereas emission limit values, parameters or equivalent technical measures should be based on the best available techniques, without prescribing the use of one specific technique or technology and taking into consideration the technical characteristics of the installation concerned, its geographical location and local environmental conditions; whereas in all cases the authorization

<sup>(1)</sup> OJ No L 175, 5. 7. 1985, p. 40.

## ▼B

- conditions will lay down provisions on minimizing long-distance or transfrontier pollution and ensure a high level of protection for the environment as a whole;
18. Whereas it is for the Member States to determine how the technical characteristics of the installation concerned, its geographical location and local environmental conditions can, where appropriate, be taken into consideration;
  19. Whereas, when an environmental quality standard requires more stringent conditions than those that can be achieved by using the best available techniques, supplementary conditions will in particular be required by the permit, without prejudice to other measures that may be taken to comply with the environmental quality standards;
  20. Whereas, because best available techniques will change with time, particularly in the light of technical advances, the competent authorities must monitor or be informed of such progress;
  21. Whereas, changes to an installation may give rise to pollution; whereas the competent authority or authorities must therefore be notified of any change which might affect the environment; whereas substantial changes to plant must be subject to the granting of prior authorization in accordance with this Directive;
  22. Whereas the authorization conditions must be periodically reviewed and if necessary updated; whereas, under certain conditions, they will in any event be re-examined;
  23. Whereas, in order to inform the public of the operation of installations and their potential effect on the environment, and in order to ensure the transparency of the licensing process throughout the Community, the public must have access, before any decision is taken, to information relating to applications for permits for new installations or substantial changes and to the permits themselves, their updating and the relevant monitoring data;
  24. Whereas the establishment of an inventory of principal emissions and sources responsible may be regarded as an important instrument making it possible in particular to compare pollution activities in the Community; whereas such an inventory will be prepared by the Commission, assisted by a regulatory committee;
  25. Whereas the development and exchange of information at Community level about best available techniques will help to redress the technological imbalances in the Community, will promote the worldwide dissemination of limit values and techniques used in the Community and will help the Member States in the efficient implementation of this Directive;
  26. Whereas reports on the implementation and effectiveness of this Directive will have to be drawn up regularly;
  27. Whereas this Directive is concerned with installations whose potential for pollution, and therefore transfrontier pollution, is significant; whereas transboundary consultation is to be organized where applications relate to the licensing of new installations or substantial changes to installations which are likely to have significant negative environmental effects; whereas the applications relating to such proposals or substantial changes will be available to the public of the Member State likely to be affected;
  28. Whereas the need for action may be identified at Community level to lay down emission limit values for certain categories of installation and pollutant covered by this Directive; whereas the Council will set such emission limit values in accordance with the provisions of the Treaty;
  29. Whereas the provisions of this Directive apply without prejudice to Community provisions on health and safety at the workplace,

HAS ADOPTED THIS DIRECTIVE:



*Article 1*

**Purpose and scope**

The purpose of this Directive is to achieve integrated prevention and control of pollution arising from the activities listed in Annex I. It lays down measures designed to prevent or, where that is not practicable, to reduce emissions in the air, water and land from the abovementioned activities, including measures concerning waste, in order to achieve a high level of protection of the environment taken as a whole, without prejudice to Directive 85/337/EEC and other relevant Community provisions.

*Article 2*

**Definitions**

For the purposes of this Directive:

1. 'substance' shall mean any chemical element and its compounds, with the exception of radioactive substances within the meaning of Directive 80/836/Euratom <sup>(1)</sup> and genetically modified organisms within the meaning of Directive 90/219/EEC <sup>(2)</sup> and Directive 90/220/EEC <sup>(3)</sup>;
2. 'pollution' shall mean the direct or indirect introduction as a result of human activity, of substances, vibrations, heat or noise into the air, water or land which may be harmful to human health or the quality of the environment, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment;
3. 'installation' shall mean a stationary technical unit where one or more activities listed in Annex I are carried out, and any other directly associated activities which have a technical connection with the activities carried out on that site and which could have an effect on emissions and pollution;
4. 'existing installation' shall mean an installation in operation or, in accordance with legislation existing before the date on which this Directive is brought into effect, an installation authorized or in the view of the competent authority the subject of a full request for authorization, provided that that installation is put into operation no later than one year after the date on which this Directive is brought into effect;
5. 'emission' shall mean the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in the installation into the air, water or land;
6. 'emission limit values' shall mean the mass, expressed in terms of certain specific parameters, concentration and/or level of an emission, which may not be exceeded during one or more periods of time. Emission limit values may also be laid down for certain groups, families or categories of substances, in particular for those listed in Annex III.

The emission limit values for substances shall normally apply at the point where the emissions leave the installation, any dilution being disregarded when determining them. With regard to indirect releases into water, the effect of a water treatment plant may be taken into

<sup>(1)</sup> Council Directive 80/836/Euratom of 15 July 1980 amending the Directives laying down the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation (OJ No L 246, 17. 9. 1980, p. 1). Directive as amended by Directive 84/467/EEC (OJ No L 265, 5. 10. 1984, p. 4).

<sup>(2)</sup> Council Directive 90/219/EEC of 23 April 1990 on the contained use of genetically modified micro-organisms (OJ No L 117, 8. 5. 90, p. 1). Directive as amended by Commission Directive 94/51/EC (OJ No L 297, 18. 11. 1994, p. 29).

<sup>(3)</sup> Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms (OJ No L 117, 8. 5. 1990, p. 15). Directive as amended by Commission Directive 94/15/EC (OJ No L 103, 22. 4. 1994, p. 20).

**▼B**

account when determining the emission limit values of the installation involved, provided that an equivalent level is guaranteed for the protection of the environment as a whole and provided this does not lead to higher levels of pollution in the environment, without prejudice to Directive 76/464/EEC or the Directives implementing it;

7. 'environmental quality standard' shall mean the set of requirements which must be fulfilled at a given time by a given environment or particular part thereof, as set out in Community legislation;
8. 'competent authority' shall mean the authority or authorities or bodies responsible under the legal provisions of the Member States for carrying out the obligations arising from this Directive;
9. 'permit' shall mean that part or the whole of a written decision (or several such decisions) granting authorization to operate all or part of an installation, subject to certain conditions which guarantee that the installation complies with the requirements of this Directive. A permit may cover one or more installations or parts of installations on the same site operated by the same operator;
10. (a) 'change in operation' shall mean a change in the nature or functioning, or an extension, of the installation which may have consequences for the environment;
- (b) 'substantial change' shall mean a change in operation which, in the opinion of the competent authority, may have significant negative effects on human beings or the environment.

**▼M1**

For the purposes of this definition, any change to or extension of an operation shall be deemed to be substantial if the change or extension in itself meets the thresholds, if any, set out in Annex I;

**▼B**

11. 'best available techniques' shall mean the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for emission limit values designed to prevent and, where that is not practicable, generally to reduce emissions and the impact on the environment as a whole:
  - 'techniques' shall include both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned,
  - 'available' techniques shall mean those developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the Member State in question, as long as they are reasonably accessible to the operator,
  - 'best' shall mean most effective in achieving a high general level of protection of the environment as a whole.

In determining the best available techniques, special consideration should be given to the items listed in Annex IV;

12. 'operator' shall mean any natural or legal person who operates or controls the installation or, where this is provided for in national legislation, to whom decisive economic power over the technical functioning of the installation has been delegated;

**▼M1**

13. 'the public' shall mean one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organisations or groups;
14. 'the public concerned' shall mean the public affected or likely to be affected by, or having an interest in, the taking of a decision on the issuing or the updating of a permit or of permit conditions; for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest.

## ▼B

*Article 3***General principles governing the basic obligations of the operator**

Member States shall take the necessary measures to provide that the competent authorities ensure that installations are operated in such a way that:

- (a) all the appropriate preventive measures are taken against pollution, in particular through application of the best available techniques;
- (b) no significant pollution is caused;
- (c) waste production is avoided in accordance with Council Directive 75/442/EEC of 15 July 1975 on waste <sup>(1)</sup>; where waste is produced, it is recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment;
- (d) energy is used efficiently;
- (e) the necessary measures are taken to prevent accidents and limit their consequences;
- (f) the necessary measures are taken upon definitive cessation of activities to avoid any pollution risk and return the site of operation to a satisfactory state.

For the purposes of compliance with this Article, it shall be sufficient if Member States ensure that the competent authorities take account of the general principles set out in this Article when they determine the conditions of the permit.

*Article 4***Permits for new installations**

Member States shall take the necessary measures to ensure that no new installation is operated without a permit issued in accordance with this Directive, without prejudice to the exceptions provided for in Council Directive 88/609/EEC of 24 November 1988 on the limitation of emissions of certain pollutants into the air from large combustion plants <sup>(2)</sup>.

*Article 5***Requirements for the granting of permits for existing installations**

1. Member States shall take the necessary measures to ensure that the competent authorities see to it, by means of permits in accordance with Articles 6 and 8 or, as appropriate, by reconsidering and, where necessary, by updating the conditions, that existing installations operate in accordance with the requirements of Articles 3, 7, 9, 10, 13, the first and second indents of 14, and 15 (2) not later than eight years after the date on which this Directive is brought into effect, without prejudice to specific Community legislation.
2. Member States shall take the necessary measures to apply the provisions of Articles 1, 2, 11, 12, 14, third indent, 15 (1), (3) and (4), 16, 17 and 18 (2) to existing installations as from the date on which this Directive is brought into effect.

*Article 6***Applications for permits**

1. Member States shall take the necessary measures to ensure that an application to the competent authority for a permit includes a description of:
  - the installation and its activities,

<sup>(1)</sup> OJ No L 194, 25. 7. 1975, p. 39. Directive as last amended by Directive 91/692/EEC (OJ No L 377, 31. 12. 1991, p. 48).

<sup>(2)</sup> OJ No L 336, 7. 12. 1988, p. 1. Directive as last amended by Directive 90/656/EEC (OJ No L 353, 17. 12. 1990, p. 59).

**▼B**

- the raw and auxiliary materials, other substances and the energy used in or generated by the installation,
- the sources of emissions from the installation,
- the conditions of the site of the installation,
- the nature and quantities of foreseeable emissions from the installation into each medium as well as identification of significant effects of the emissions on the environment,
- the proposed technology and other techniques for preventing or, where this not possible, reducing emissions from the installation,
- where necessary, measures for the prevention and recovery of waste generated by the installation,
- further measures planned to comply with the general principles of the basic obligations of the operator as provided for in Article 3,
- measures planned to monitor emissions into the environment,

**▼M1**

- the main alternatives, if any, studied by the applicant in outline.

**▼B**

An application for a permit shall also include a non-technical summary of the details referred to in the above indents.

2. Where information supplied in accordance with the requirements provided for in Directive 85/337/EEC or a safety report prepared in accordance with Council Directive 82/501/EEC of 24 June 1982 on the major-accident hazards of certain industrial activities <sup>(1)</sup> or other information produced in response to other legislation fulfils any of the requirements of this Article, that information may be included in, or attached to, the application.

*Article 7***Integrated approach to issuing permits**

Member States shall take the measures necessary to ensure that the conditions of, and procedure for the grant of, the permit are fully coordinated where more than one competent authority is involved, in order to guarantee an effective integrated approach by all authorities competent for this procedure.

*Article 8***Decisions**

Without prejudice to other requirements laid down in national or Community legislation, the competent authority shall grant a permit containing conditions guaranteeing that the installation complies with the requirements of this Directive or, if it does not, shall refuse to grant the permit.

All permits granted and modified permits must include details of the arrangements made for air, water and land protection as referred to in this Directive.

*Article 9***Conditions of the permit**

1. Member States shall ensure that the permit includes all measures necessary for compliance with the requirements of Articles 3 and 10 for the granting of permits in order to achieve a high level of protection for the environment as a whole by means of protection of the air, water and land.

<sup>(1)</sup> OJ No L 230, 5. 8. 1982, p. 1. Directive as last amended by Directive 91/692/EEC (OJ No L 377, 31. 12. 1991, p. 48).



**▼B**

2. In the case of a new installation or a substantial change where Article 4 of Directive 85/337/EEC applies, any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 and 7 of that Directive shall be taken into consideration for the purposes of granting the permit.

3. The permit shall include emission limit values for pollutants, in particular, those listed in Annex III, likely to be emitted from the installation concerned in significant quantities, having regard to their nature and their potential to transfer pollution from one medium to another (water, air and land). If necessary, the permit shall include appropriate requirements ensuring protection of the soil and ground water and measures concerning the management of waste generated by the installation. Where appropriate, limit values may be supplemented or replaced by equivalent parameters or technical measures.

For installations under subheading 6.6 in Annex I, emission limit values laid down in accordance with this paragraph shall take into account practical considerations appropriate to these categories of installation.

**▼M2**

Where emissions of a greenhouse gas from an installation are specified in Annex I to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC <sup>(1)</sup> in relation to an activity carried out in that installation, the permit shall not include an emission limit value for direct emissions of that gas unless it is necessary to ensure that no significant local pollution is caused.

For activities listed in Annex I to Directive 2003/87/EC, Member States may choose not to impose requirements relating to energy efficiency in respect of combustion units or other units emitting carbon dioxide on the site.

Where necessary, the competent authorities shall amend the permit as appropriate.

The three preceding subparagraphs shall not apply to installations temporarily excluded from the scheme for greenhouse gas emission allowance trading within the Community in accordance with Article 27 of Directive 2003/87/EC.

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4. Without prejudice to Article 10, the emission limit values and the equivalent parameters and technical measures referred to in paragraph 3 shall be based on the best available techniques, without prescribing the use of any technique or specific technology, but taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions. In all circumstances, the conditions of the permit shall contain provisions on the minimization of long-distance or transboundary pollution and ensure a high level of protection for the environment as a whole.

5. The permit shall contain suitable release monitoring requirements, specifying measurement methodology and frequency, evaluation procedure and an obligation to supply the competent authority with data required for checking compliance with the permit.

For installations under subheading 6.6 in Annex I, the measures referred to in this paragraph may take account of costs and benefits.

6. The permit shall contain measures relating to conditions other than normal operating conditions. Thus, where there is a risk that the environment may be affected, appropriate provision shall be made for start-up, leaks malfunctions, momentary stoppages and definitive cessation of operations.

<sup>(1)</sup> OJ L 275, 25.10.2003, p. 32.

## ▼B

The permit may also contain temporary derogations from the requirements of paragraph 4 if a rehabilitation plan approved by the competent authority ensures that these requirements will be met within six months and if the project leads to a reduction of pollution.

7. The permit may contain such other specific conditions for the purposes of this Directive as the Member State or competent authority may think fit.

8. Without prejudice to the obligation to implement a permit procedure pursuant to this Directive, Member States may prescribe certain requirements for certain categories of installations in general binding rules instead of including them in individual permit conditions, provided that an integrated approach and an equivalent high level of environmental protection as a whole are ensured.

#### Article 10

##### Best available techniques and environmental quality standards

Where an environmental quality standard requires stricter conditions than those achievable by the use of the best available techniques, additional measures shall in particular be required in the permit, without prejudice to other measures which might be taken to comply with environmental quality standards.

#### Article 11

##### Developments in best available techniques

Member States shall ensure that the competent authority follows or is informed of developments in best available techniques.

#### Article 12

##### Changes by operators to installations

1. Member States shall take the necessary measures to ensure that the operator informs the competent authorities of any changes planned in the operation of the installation as referred to in Article 2 (10) (a). Where appropriate, the competent authorities shall update the permit or the conditions.

2. Member States shall take the necessary measures to ensure that no substantial change in the operation of the installation within the meaning of Article 2 (10) (b) planned by the operator is made without a permit issued in accordance with this Directive. The application for a permit and the decision by the competent authority must cover those parts of the installation and those aspects listed in Article 6 that may be affected by the change. The relevant provisions of Articles 3 and 6 to 10 and Article 15 (1), (2) and (4) shall apply *mutatis mutandis*.

#### Article 13

##### Reconsideration and updating of permit conditions by the competent authority

1. Member States shall take the necessary measures to ensure that competent authorities periodically reconsider and, where necessary, update permit conditions.

2. The reconsideration shall be undertaken in any event where:

- the pollution caused by the installation is of such significance that the existing emission limit values of the permit need to be revised or new such values need to be included in the permit,
- substantial changes in the best available techniques make it possible to reduce emissions significantly without imposing excessive costs,
- the operational safety of the process or activity requires other techniques to be used,
- new provisions of Community or national legislation so dictate.

**▼B***Article 14***Compliance with permit conditions**

Member States shall take the necessary measures to ensure that:

- the conditions of the permit are complied with by the operator when operating the installation,
- the operator regularly informs the competent authority of the results of the monitoring of releases and without delay of any incident or accident significantly affecting the environment,
- operators of installations afford the representatives of the competent authority all necessary assistance to enable them to carry out any inspections within the installation, to take samples and to gather any information necessary for the performance of their duties for the purposes of this Directive.

*Article 15***Access to information and public participation in the permit procedure****▼M1**

1. Member States shall ensure that the public concerned are given early and effective opportunities to participate in the procedure for:

- issuing a permit for new installations,
- issuing a permit for any substantial change in the operation of an installation,
- updating of a permit or permit conditions for an installation in accordance with Article 13, paragraph 2, first indent.

The procedure set out in Annex V shall apply for the purposes of such participation.

**▼B**

2. The results of monitoring of releases as required under the permit conditions referred to in Article 9 and held by the competent authority must be made available to the public.

**▼M4**

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**▼B**

4. Paragraphs 1, 2 and 3 shall apply subject to the restrictions laid down in Article 3 (2) and (3) of Directive 90/313/EEC.

**▼M1**

5. When a decision has been taken, the competent authority shall inform the public in accordance with the appropriate procedures and shall make available to the public the following information:

- (a) the content of the decision, including a copy of the permit and of any conditions and any subsequent updates; and
- (b) having examined the concerns and opinions expressed by the public concerned, the reasons and considerations on which the decision is based, including information on the public participation process.

*Article 15a***Access to justice**

Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned:

- (a) having a sufficient interest, or alternatively,
- (b) maintaining the impairment of a right, where administrative procedural law of a Member State requires this as a precondition;

have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of this Directive.

**▼M1**

Member States shall determine at what stage the decisions, acts or omissions may be challenged.

What constitutes a sufficient interest and impairment of a right shall be determined by the Member States, consistently with the objective of giving the public concerned wide access to justice. To this end, the interest of any non-governmental organisation meeting the requirements referred to in Article 2(14) shall be deemed sufficient for the purpose of subparagraph (a) of this Article. Such organisations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) of this Article.

The provisions of this Article shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

Any such procedure shall be fair, equitable, timely and not prohibitively expensive.

In order to further the effectiveness of the provisions of this Article, Member States shall ensure that practical information is made available to the public on access to administrative and judicial review procedures.

**▼B***Article 16***Exchange of information**

1. With a view to exchanging information, Member States shall take the necessary measures to send the Commission every three years, and for the first time within 18 months of the date on which this Directive is brought into effect, the available representative data on the limit values laid down by specific category of activities in accordance with Annex I and, if appropriate, the best available techniques from which those values are derived in accordance with, in particular, Article 9. On subsequent occasions the data shall be supplemented in accordance with the procedures laid down in paragraph 3 of this Article.

2. The Commission shall organize an exchange of information between Member States and the industries concerned on best available techniques, associated monitoring, and developments in them. Every three years the Commission shall publish the results of the exchanges of information.

3. Reports on the implementation of this Directive and its effectiveness compared with other Community environmental instruments shall be established in accordance with the procedure laid down in Articles 5 and 6 of Directive 91/692/EEC. The first report shall cover the three years following the date on which this present Directive is brought into effect as referred to in Article 21. The Commission shall submit the report to the Council, accompanied by proposals if necessary.

4. Member States shall establish or designate the authority or authorities which are to be responsible for the exchange of information under paragraphs 1, 2 and 3 and shall inform the Commission accordingly.

*Article 17***Transboundary effects****▼M1**

1. Where a Member State is aware that the operation of an installation is likely to have significant negative effects on the environment of another Member State, or where a Member State likely to be significantly affected so requests, the Member State in whose territory the application for a permit pursuant to Article 4 or Article 12(2) was submitted shall forward to the other Member State any information required to be given or made available pursuant to Annex V at the same time as it makes it available to its own nationals. Such information shall

**▼M1**

serve as a basis for any consultations necessary in the framework of the bilateral relations between the two Member States on a reciprocal and equivalent basis.

**▼B**

2. Within the framework of their bilateral relations, Member States shall see to it that in the cases referred to in paragraph 1 the applications are also made available for an appropriate period of time to the public of the Member State likely to be affected so that it will have the right to comment on them before the competent authority reaches its decision.

**▼M1**

3. The results of any consultations pursuant to paragraphs 1 and 2 must be taken into consideration when the competent authority reaches a decision on the application.

4. The competent authority shall inform any Member State, which has been consulted pursuant to paragraph 1, of the decision reached on the application and shall forward to it the information referred to in Article 15(5). That Member State shall take the measures necessary to ensure that that information is made available in an appropriate manner to the public concerned in its own territory.

**▼B***Article 18***Community emission limit values**

1. Acting on a proposal from the Commission, the Council will set emission limit values, in accordance with the procedures laid down in the Treaty, for:

- the categories of installations listed in Annex I except for the landfills covered by categories 5.1 and 5.4 of that Annex,
- and

- the polluting substances referred to in Annex III,

for which the need for Community action has been identified, on the basis, in particular, of the exchange of information provided for in Article 16.

2. In the absence of Community emission limit values defined pursuant to this Directive, the relevant emission limit values contained in the Directives referred to in Annex II and in other Community legislation shall be applied as minimum emission limit values pursuant to this Directive for the installations listed in Annex I.

Without prejudice to the requirements of this Directive, the technical requirements applicable for the landfills covered by categories 5.1 and 5.4 of Annex I, shall be fixed by the Council, acting on a proposal by the Commission, in accordance with the procedures laid down in the Treaty.

**▼M3***Article 19***Committee procedure**

1. The Commission shall be assisted by a committee.
2. Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC <sup>(1)</sup> 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.

<sup>(1)</sup> Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).



#### *Article 20*

##### **Transitional provisions**

1. The provisions of Directive 84/360/EEC, the provisions of Articles 3, 5, 6 (3) and 7 (2) of Directive 76/464/EEC and the relevant provisions concerning authorization systems in the Directives listed in Annex II shall apply, without prejudice to the exceptions provided for in Directive 88/609/EEC, to existing installations in respect of activities listed in Annex I until the measures required pursuant to Article 5 of this Directive have been taken by the competent authorities.

2. The relevant provisions concerning authorization systems in the Directives referred to in paragraph 1 shall not apply to installations which are new in respect of the activities listed in Annex I on the date on which this Directive is brought into effect.

3. Directive 84/360/EEC shall be repealed 11 years after the date of entry into force of this Directive.

As soon as the measures provided for in Article 4, 5 or 12 have been taken in respect of an installation, the exception provided for in Article 6 (3) of Directive 76/464/EEC shall no longer apply to installations covered by this Directive.

Acting on a proposal from the Commission, the Council shall, where necessary, amend the relevant provisions of the Directives referred to in Annex II in order to adapt them to the requirements of this Directive before the date of repeal of Directive 84/360/EEC, referred to in the first subparagraph.

#### *Article 21*

##### **Bringing into effect**

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive no later than three years 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 texts of the main provisions of national law which they adopt in the field covered by this Directive.

#### *Article 22*

This Directive shall enter into force on the 20th day following its publication.

#### *Article 23*

This Directive is addressed to the Member States.



ANNEX I

**CATEGORIES OF INDUSTRIAL ACTIVITIES REFERRED TO IN ARTICLE 1**

1. Installations or parts of installations used for research, development and testing of new products and processes are not covered by this Directive.
2. The threshold values given below generally refer to production capacities or outputs. Where one operator carries out several activities falling under the same subheading in the same installation or on the same site, the capacities of such activities are added together.
  1. **Energy industries**
    - 1.1. Combustion installations with a rated thermal input exceeding 50 MW <sup>(1)</sup>
    - 1.2. Mineral oil and gas refineries
    - 1.3. Coke ovens
    - 1.4. Coal gasification and liquefaction plants
  2. **Production and processing of metals**
    - 2.1. Metal ore (including sulphide ore) roasting or sintering installations
    - 2.2. Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2,5 tonnes per hour
    - 2.3. Installations for the processing of ferrous metals:
      - (a) hot-rolling mills with a capacity exceeding 20 tonnes of crude steel per hour
      - (b) smitheries with hammers the energy of which exceeds 50 kilojoule per hammer, where the calorific power used exceeds 20 MW
      - (c) application of protective fused metal coats with an input exceeding 2 tonnes of crude steel per hour
    - 2.4. Ferrous metal foundries with a production capacity exceeding 20 tonnes per day
    - 2.5. Installations
      - (a) for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes
      - (b) for the smelting, including the alloyage, of non-ferrous metals, including recovered products, (refining, foundry casting, etc.) with a melting capacity exceeding 4 tonnes per day for lead and cadmium or 20 tonnes per day for all other metals
    - 2.6. Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process where the volume of the treatment vats exceeds 30 m<sup>3</sup>
  3. **Mineral industry**
    - 3.1. Installations for the production of cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or lime in rotary kilns with a production capacity exceeding 50 tonnes per day or in other furnaces with a production capacity exceeding 50 tonnes per day
    - 3.2. Installations for the production of asbestos and the manufacture of asbestos-based products
    - 3.3. Installations for the manufacture of glass including glass fibre with a melting capacity exceeding 20 tonnes per day
    - 3.4. Installations for melting mineral substances including the production of mineral fibres with a melting capacity exceeding 20 tonnes per day
    - 3.5. Installations for the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tonnes per day, and/or with a kiln capacity exceeding 4 m<sup>3</sup> and with a setting density per kiln exceeding 300 kg/m<sup>3</sup>

<sup>(1)</sup> The material requirements of Directive 88/609/EEC for existing installations still apply until 31 December 2003.

**▼B****4. Chemical industry**

Production within the meaning of the categories of activities contained in this section means the production on an industrial scale by chemical processing of substances or groups of substances listed in Sections 4.1 to 4.6

- 4.1. Chemical installations for the production of basic organic chemicals, such as:
- (a) simple hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic)
  - (b) oxygen-containing hydrocarbons such as alcohols, aldehydes, ketones, carboxylic acids, esters, acetates, ethers, peroxides, epoxy resins
  - (c) sulphurous hydrocarbons
  - (d) nitrogenous hydrocarbons such as amines, amides, nitrous compounds, nitro compounds or nitrate compounds, nitriles, cyanates, isocyanates
  - (e) phosphorus-containing hydrocarbons
  - (f) halogenic hydrocarbons
  - (g) organometallic compounds
  - (h) basic plastic materials (polymers synthetic fibres and cellulose-based fibres)
  - (i) synthetic rubbers
  - (j) dyes and pigments
  - (k) surface-active agents and surfactants
- 4.2. Chemical installations for the production of basic inorganic chemicals, such as:
- (a) gases, such as ammonia, chlorine or hydrogen chloride, fluorine or hydrogen fluoride, carbon oxides, sulphur compounds, nitrogen oxides, hydrogen, sulphur dioxide, carbonyl chloride
  - (b) acids, such as chromic acid, hydrofluoric acid, phosphoric acid, nitric acid, hydrochloric acid, sulphuric acid, oleum, sulphurous acids
  - (c) bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide
  - (d) salts, such as ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate
  - (e) non-metals, metal oxides or other inorganic compounds such as calcium carbide, silicon, silicon carbide
- 4.3. Chemical installations for the production of phosphorous-, nitrogen- or potassium-based fertilizers (simple or compound fertilizers)
- 4.4. Chemical installations for the production of basic plant health products and of biocides
- 4.5. Installations using a chemical or biological process for the production of basic pharmaceutical products
- 4.6. Chemical installations for the production of explosives

**5. Waste management**

Without prejudice of Article 11 of Directive 75/442/EEC or Article 3 of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste <sup>(1)</sup>:

- 5.1. Installations for the disposal or recovery of hazardous waste as defined in the list referred to in Article 1 (4) of Directive 91/689/EEC, as defined in Annexes II A and II B (operations R1, R5, R6, R8 and R9) to Directive 75/442/EEC and in Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils <sup>(2)</sup>, with a capacity exceeding 10 tonnes per day
- 5.2. Installations for the incineration of municipal waste as defined in Council Directive 89/369/EEC of 8 June 1989 on the prevention of air pollution from new municipal waste incineration plants <sup>(3)</sup> and Council Directive 89/429/EEC of 21 June 1989 on the reduction of air pollution from existing municipal waste-incineration plants <sup>(4)</sup> with a capacity exceeding 3 tonnes per hour

<sup>(1)</sup> OJ No L 377, 31. 12. 1991, p. 20. Directive as amended by Directive 94/31/EC (OJ No L 168, 2. 7. 1994, p. 28).

<sup>(2)</sup> OJ No L 194, 25. 7. 1975, p. 23. Directive as last amended by Directive 91/692/EEC (OJ No L 377, 31. 12. 1991, p. 48).

<sup>(3)</sup> OJ No L 163, 14. 6. 1989, p. 32.

<sup>(4)</sup> OJ No L 203, 15. 7. 1989, p. 50.



**▼B**

- 5.3. Installations for the disposal of non-hazardous waste as defined in Annex II A to Directive 75/442/EEC under headings D8 and D9, with a capacity exceeding 50 tonnes per day
- 5.4. Landfills receiving more than 10 tonnes per day or with a total capacity exceeding 25 000 tonnes, excluding landfills of inert waste
6. **Other activities**
  - 6.1. Industrial plants for the production of:
    - (a) pulp from timber or other fibrous materials
    - (b) paper and board with a production capacity exceeding 20 tonnes per day
  - 6.2. Plants for the pre-treatment (operations such as washing, bleaching, mercerization) or dyeing of fibres or textiles where the treatment capacity exceeds 10 tonnes per day
  - 6.3. Plants for the tanning of hides and skins where the treatment capacity exceeds 12 tonnes of finished products per day
  - 6.4. (a) Slaughterhouses with a carcase production capacity greater than 50 tonnes per day
    - (b) Treatment and processing intended for the production of food products from:
      - animal raw materials (other than milk) with a finished product production capacity greater than 75 tonnes per day
      - vegetable raw materials with a finished product production capacity greater than 300 tonnes per day (average value on a quarterly basis)
    - (c) Treatment and processing of milk, the quantity of milk received being greater than 200 tonnes per day (average value on an annual basis)
  - 6.5. Installations for the disposal or recycling of animal carcasses and animal waste with a treatment capacity exceeding 10 tonnes per day
  - 6.6. Installations for the intensive rearing of poultry or pigs with more than:
    - (a) 40 000 places for poultry
    - (b) 2 000 places for production pigs (over 30 kg), or
    - (c) 750 places for sows
  - 6.7. Installations for the surface treatment of substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, with a consumption capacity of more than 150 kg per hour or more than 200 tonnes per year
  - 6.8. Installations for the production of carbon (hard-burnt coal) or electrographite by means of incineration or graphitization



## ANNEX II

**LIST OF THE DIRECTIVES REFERRED TO IN ARTICLES 18 (2) AND  
20**

1. Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos
2. Directive 82/176/EEC on limit values and quality objectives for mercury discharges by the chlor-alkali electrolysis industry
3. Directive 83/513/EEC on limit values and quality objectives for cadmium discharges
4. Directive 84/156/EEC on limit values and quality objectives for mercury discharges by sectors other than the chlor-alkali electrolysis industry
5. Directive 84/491/EEC on limit values and quality objectives for discharges of hexachlorocyclohexane
6. Directive 86/280/EEC on limit values and quality objectives for discharges of certain dangerous substances included in List 1 of the Annex to Directive 76/464/EEC, subsequently amended by Directives 88/347/EEC and 90/415/EEC amending Annex II to Directive 86/280/EEC
7. Directive 89/369/EEC on the prevention of air pollution from new municipal waste-incineration plants
8. Directive 89/429/EEC on the reduction of air pollution from existing municipal waste-incineration plants
9. Directive 94/67/EC on the incineration of hazardous waste
10. Directive 92/112/EEC on procedures for harmonizing the programmes for the reduction and eventual elimination of pollution caused by waste from the titanium oxide industry
11. Directive 88/609/EEC on the limitation of emissions of certain pollutants into the air from large combustion plants, as last amended by Directive 94/66/EC
12. Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community
13. Directive 75/442/EEC on waste, as amended by Directive 91/156/EEC
14. Directive 75/439/EEC on the disposal of waste oils
15. Directive 91/689/EEC on hazardous waste

**▼B***ANNEX III***INDICATIVE LIST OF THE MAIN POLLUTING SUBSTANCES TO BE  
TAKEN INTO ACCOUNT IF THEY ARE RELEVANT FOR FIXING  
EMISSION LIMIT VALUES****AIR**

1. Sulphur dioxide and other sulphur compounds
2. Oxides of nitrogen and other nitrogen compounds
3. Carbon monoxide
4. Volatile organic compounds
5. Metals and their compounds
6. Dust
7. Asbestos (suspended particulates, fibres)
8. Chlorine and its compounds
9. Fluorine and its compounds
10. Arsenic and its compounds
11. Cyanides
12. Substances and preparations which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction via the air
13. Polychlorinated dibenzodioxins and polychlorinated dibenzofurans

**WATER**

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment
2. Organophosphorus compounds
3. Organotin compounds
4. Substances and preparations which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction in or via the aquatic environment
5. Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances
6. Cyanides
7. Metals and their compounds
8. Arsenic and its compounds
9. Biocides and plant health products
10. Materials in suspension
11. Substances which contribute to eutrophication (in particular, nitrates and phosphates)
12. Substances which have an unfavourable influence on the oxygen balance (and can be measured using parameters such as BOD, COD, etc.).

**▼B***ANNEX IV*

Considerations to be taken into account generally or in specific cases when determining best available techniques, as defined in Article 2 (11), bearing in mind the likely costs and benefits of a measure and the principles of precaution and prevention:

1. the use of low-waste technology;
2. the use of less hazardous substances;
3. the furthering of recovery and recycling of substances generated and used in the process and of waste, where appropriate;
4. comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;
5. technological advances and changes in scientific knowledge and understanding;
6. the nature, effects and volume of the emissions concerned;
7. the commissioning dates for new or existing installations;
8. the length of time needed to introduce the best available technique;
9. the consumption and nature of raw materials (including water) used in the process and their energy efficiency;
10. the need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it;
11. the need to prevent accidents and to minimize the consequences for the environment;
12. the information published by the Commission pursuant to Article 16 (2) or by international organizations.

## ▼M1

## ANNEX V

**Public participation in decision-making**

1. The public shall be informed (by public notices or other appropriate means such as electronic media where available) of the following matters early in the procedure for the taking of a decision or, at the latest, as soon as the information can reasonably be provided:
  - (a) the application for a permit or, as the case may be, the proposal for the updating of a permit or of permit conditions in accordance with Article 15 (1), including the description of the elements listed in Article 6(1);
  - (b) where applicable, the fact that a decision is subject to a national or trans-boundary environmental impact assessment or to consultations between Member States in accordance with Article 17;
  - (c) details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;
  - (d) the nature of possible decisions or, where there is one, the draft decision;
  - (e) where applicable, the details relating to a proposal for the updating of a permit or of permit conditions;
  - (f) an indication of the times and places where, or means by which, the relevant information will be made available;
  - (g) details of the arrangements for public participation and consultation made pursuant to point 5.
2. Member States shall ensure that, within appropriate time-frames, the following is made available to the public concerned:
  - (a) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public concerned were informed in accordance with point 1;
  - (b) in accordance with the provisions of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information <sup>(1)</sup>, information other than that referred to in point 1 which is relevant for the decision in accordance with Article 8 and which only becomes available after the time the public concerned was informed in accordance with point 1.
3. The public concerned shall be entitled to express comments and opinions to the competent authority before a decision is taken.
4. The results of the consultations held pursuant to this Annex must be taken into due account in the taking of a decision.
5. The detailed arrangements for informing the public (for example by bill posting within a certain radius or publication in local newspapers) and consulting the public concerned (for example by written submissions or by way of a public inquiry) shall be determined by the Member States. Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to the provisions of this Annex.

<sup>(1)</sup> OJ L 41, 14.2.2003, p. 26.

