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ADDENDUM TO "I" ITEM NOTE

from: General Secretariat of the Council
to: COREPER

No. Cion prop.: 16175/11 ENER 344 ENV 832 MARE 1 COMAR 1 PROCIV 144 CODEC 1871

Subject: Proposal for a Regulation of the European Parliament and of the Council on safety of offshore oil and gas prospection, exploration and production activities
- *Approval of the final compromise text*

Delegations will find attached in Annex the consolidated version of the draft Directive.

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

on safety of offshore oil and gas operations and amending Directive 2004/35/EC

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192
■ thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national *parliaments*,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C 143, 22.5.2012, p. 125.

Whereas:

- (1) Article 191 of the TFEU establishes the objectives of preserving, protecting and improving the quality of the environment and ***the prudent and rational utilisation of natural resources***. It creates an obligation for all Union action to be supported by a high level of protection based on the precautionary principle, and ***on the principles that preventive action should be taken, that environmental damage should as a matter of priority be rectified at source and that the polluter should pay***.
- (2) The objective of this ***Directive*** is to reduce ***as far as possible*** the occurrence of major accidents related to offshore oil and gas ***operations*** and to limit their consequences, thus increasing the protection of the marine environment and coastal economies against pollution as well as establishing minimum conditions for safe offshore exploration and exploitation of oil and gas and limiting possible disruptions to Union indigenous energy production and to improve the response mechanisms in case of an accident.
- (3) This ***Directive*** should apply not only to future installations and operations but, subject to transitional arrangements, also to existing installations.
- (3a) ***Major accidents related to offshore oil and gas operations are likely to have devastating and irreversible consequences on the marine and coastal environment as well as significant negative impacts on coastal economies***.
- (4) Accidents related to offshore oil and gas ***operations***, notably the ***in the Gulf of Mexico in 2010, have raised public awareness for the risks involved in offshore oil and gas operations and have prompted*** a review of policies aimed at ensuring the safety of offshore ***operations***. The Commission launched a review of and expressed its initial views on the safety of offshore oil and gas operations in its Communication "Facing the challenge of the safety of offshore oil and gas activities" on 13 October 2010. The European Parliament adopted resolutions on the topic on 7 October 2010 and 13 September 2011. Energy Ministers of the Member States expressed their views in Energy Council Conclusions on 3 December 2010.

- (5) The risks of a major offshore oil or gas accident are significant. By reducing the risk of pollution of marine waters, this **Directive** should therefore contribute to **ensuring** the protection of the marine environment and in particular to **achieving or maintaining** good environmental status by 2020 at the latest, as set out in Article 1(1) of Directive 2008/56/EC of the European Parliament and the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)¹.
- (6) The Marine Strategy Framework Directive **aims to address, as one of its central purposes**, the cumulative impacts from all activities on the marine environment, **and** is the environmental pillar of the Integrated Maritime Policy. This Policy is relevant to offshore oil and gas operations as it requires **the linking of** particular concerns from each economic sector with the general aim of **ensuring** a comprehensive understanding of the oceans, seas and coastal areas, with the objective **of developing** a coherent approach to the seas taking into account all economic, environmental and social aspects through the use of maritime spatial planning and marine knowledge.
- (7) Offshore oil and gas industries are established in a number of regions of the Union, and there are prospects for new regional developments in Union waters, **with technological developments allowing for drilling in more challenging environments**. Production of offshore oil and gas is a significant element in EU security of energy supply.
- (8) The existing **divergent and** fragmented regulatory framework applying to safety of offshore **oil and gas operations** in Europe and current industry safety practices do not provide **a fully** adequate assurance that risks from offshore accidents are minimised throughout the Union, and that in the event of accident occurring in Union waters, the most effective response would be **deployed in a timely manner**. Under existing liability regimes, the responsible party may not always be clearly identifiable and **may not be able, or liable, to pay all the costs to remedy the damage it has caused**. **The liable party should always be clearly identifiable before offshore oil and gas operations start**.

- (9) Pursuant to Directive 1994/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons ■ offshore oil and gas **operations** in the Union may be performed subject to **obtaining** of an authorisation. In this context the **licensing** authority is required to consider the technical and financial risks, and where appropriate, the previous record of responsibility, of applicants seeking exclusive exploration and production licenses. There is the need to ensure that when examining the technical and financial capability of the licensee the **licensing authority** thoroughly examine also its capability for ensuring continued safe and effective operations under all foreseeable conditions. ***When assessing the financial capability of entities applying for authorisation pursuant to Directive 94/22/EC, Member States should verify that entities have provided appropriate evidence that adequate provisions have been or will be made to cover liabilities deriving from major accidents.***
- (10) There is a need to clarify that holders of authorisations for offshore **oil and gas operations** pursuant to Directive 94/22/EC are also **the** liable 'operators' within the meaning of Directive 2004/35/EC of the European Parliament and the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage¹, and **should** not ■ delegate their responsibilities in this regard to third parties contracted by them.
- (11) While general **authorisations** pursuant to Directive 94/22/EC **guarantee** to the licensees exclusive rights for exploring for or producing oil and/or gas within a given area, **offshore oil and gas** operations within that area need to be subject to continuous expert regulatory oversight by Member States in order to ensure there are effective controls in place for preventing major accidents, and limiting their impacts to persons, the environment, and security of energy supply.

- (11a) Offshore oil and gas operations should only be conducted by operators appointed by licensees or licensing authorities. Operator can be a third party or the licensee or one of the licensees depending on commercial arrangements or national administrative requirements. The operator should always be the entity with the primary responsibility for safety of operations and should be at all times competent to act in that regard. This role differs depending on the particular stage of activities covered by the license. The operator's role is therefore to operate a well at the exploration stage and to operate a production installation at the production stage. The operator of a well at the exploration stage and the operator of a production installation may be the same entity for a given licensed area.**
- (11b) Operators should reduce the risks of a major accident to as low as reasonably practicable, to the point where the cost of further risk reduction would be grossly disproportionate to the benefits achieved. The reasonable practicability of risk reduction measures should be kept under review in the light of new knowledge and technology developments. In assessing whether the time, cost and effort would be grossly disproportionate from the benefits of further reducing the risk, regard should be had to best practice risk levels compatible with the undertaking.**
- (12) It is important to ensure that the public is given early and effective opportunity to participate in the decision-making related to operations that can potentially have significant effects on the environment in the European Union. This policy is in line with the Union's international commitments, such as the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention). Article 6 of the Aarhus Convention provides for public participation in decisions on the specific activities listed in Annex I thereto and on activities not so listed which may have a significant effect on the environment. Article 7 of the Aarhus Convention requires public participation concerning plans and programmes relating to the environment.**

(12a) Relevant requirements exist in Union legislation in relation to the development of plans and projects, notably in Directives 2001/42/EC, 2003/35/EC, 2012/18/EU and 2011/92/EU. However, not all exploratory offshore oil and gas operations are covered by existing Union requirements on public participation. This applies in particular to the decision-making that aims or could lead to commencement of exploration operations from a non-production installation. Yet, such exploration operations may in some circumstances potentially have significant effects on the environment and should therefore be the subject of public participation as required under the Aarhus Convention.

(13) Within the Union, there are already examples of good standards in national regulatory practices related to offshore oil and gas *operations*. However, these are inconsistently applied throughout the Union and no Member State has yet incorporated all of the best regulatory practices in their legislation for preventing major offshore accidents or limiting their consequences *for human life and health, and for the environment*. Best regulatory practices are *necessary to deliver effective regulation which secures the highest safety standards and protects the environment, and can be achieved, inter alia*, by integrating related functions into a joint competent authority ("the competent authority") that may draw resources from one or more national *bodies*.

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(14a) In accordance with Directive 92/91/EEC, workers and/or their representatives should be consulted on matters relating to health and safety at work and be allowed to take part in discussions on all questions relating to safety and health at work. In addition, best practice in the Union is for consultation mechanisms to be formally established by Member States on a tripartite basis comprising employer and worker representatives and the competent authority. An example of such formal consultation is the International Labour Organisation Tripartite Consultation (International Labour Standards) Convention, 1976 (No.144).

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(15a) *Member States should ensure that the competent authority is legally empowered and adequately resourced to be capable of taking effective, proportionate and transparent enforcement action, including where appropriate cessation of operations, in matters of unsatisfactory safety performance and environmental protection by operators.*

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(16a) *The independence and objectivity of the competent authority should be ensured by the measures in this Directive. In this regard, experience gained from offshore major accidents shows clearly that the organization of administrative competences within a Member State can prevent conflicts of interest by a clear separation between regulatory functions and associated decisions relating to offshore safety and the environment, and the regulatory functions relating to economic development of the offshore natural resources including licensing and revenues management. Such conflicts of interest are best prevented by a complete separation of the competent authority from the functions relating to this economic development.*

(16b) *However, complete separation of the competent authority from economic development may be disproportionate where there is a low level of offshore oil and gas operations in a Member State. In that case, the Member State concerned would be expected to make best alternative arrangements to secure the independence and objectivity of the competent authority.*

(17) The complex major hazards relating to the offshore oil and gas industry, specifically in process safety, safe containment of hydrocarbons, structural integrity, prevention of fire and explosion, evacuation, escape and rescue, and limiting environmental impact following a major accident require *specific legislation* addressing the specific hazards of the offshore oil and gas sector.

- (18) This **Directive** should apply without prejudice to any requirements under any other Union legislation, notably in the field of health and safety of workers at work, in particular Council Directive 89/391/EC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work¹ and Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral- extracting industries through drilling (eleventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)¹.
- (19) An offshore regime needs to apply to operations carried out on both fixed and mobile installations, and apply to the lifecycle of exploration and production activities from design to decommissioning and permanent abandonment.
- (20) The best operational practices currently available for major accident prevention in offshore oil and gas operations are based on **a goal-setting approach and on** achieving desirable outcomes through thorough risk assessment and reliable management systems.
- (21) Union best operating practices require **licensees** and/or operators of installations¹ to establish effective corporate **safety and environmental policies, to make** suitable arrangements for major accident prevention and to comprehensively and systematically identify all major hazard scenarios relating to all hazardous activities that may be carried out on that installation, **including impacts on the environment arising from a major accident**. These best practices require also assessing the likelihood and consequences and **therefore the risk of such hazards, and also their necessary control measures and emergency response** within a comprehensive safety **and environmental** management system **and emergency response plan for the installation**. Such policy, **risk management measures** and arrangements should be clearly described **and compiled in the report on major hazards**. **The report on major hazards should be** complementary to the safety and health document referred to in Directive 92/91/EC and it should also include provisions on environmental risk **management and** emergency plans. **The workforce should be consulted at the relevant stages of the preparation of the report on major hazards**. **The report on major hazards should also be required to be thoroughly assessed and accepted** by the competent authority¹.

- (22) In order to maintain the effectiveness of major accident risk controls in Union waters, ***the report on major hazards should*** be prepared in respect of any significant aspect of the lifecycle of a production installation, including design, operation, operations when combined with other installations, ***relocation of such installation within a Member State's waters***, major modifications, and final abandonment. ***Similarly, the report on major hazards should be prepared in respect of non-production installations. No installation should be operated in Union waters unless the operator or the owner of a non-production installation has submitted the report on major hazards*** to the competent authority ***and the competent authority has accepted it. Acceptance by the competent authority of the report on major hazards should not imply any transfer of responsibility for control of major hazards from the operator to the competent authority.***
- (23) ***Well operations*** should only be undertaken by an installation technically capable of controlling all the foreseeable hazards at the well location, and which has an accepted ***report on major hazards***.
- (24) In addition to utilising a suitable installation, the ■ operator should prepare detailed plans pertinent to the particular circumstances and hazards of each well operation and in accordance with best practices in the Union provide for independent expert examination of the well design. The ■ operator should send a notification of his well plans to the competent authority in sufficient time for the competent authority to take any necessary action in respect of the planned well operation. ***In this respect, Member States may introduce more stringent national requirements prior to the commencement of a well operation.***
- (25) To ensure safety in design and continuous safe operations, the industry is required to follow the best available practices defined in authoritative standards and guidance, and these require to be updated with new knowledge and invention and pursuant to continuous improvement so that operators and competent authorities should collaborate to establish priorities for the creation of new or improved standards and guidance in the light of the Deepwater Horizon accident experience and other ***major*** offshore accidents, and should commission the preparation of the highest priority guidance and standards without delay.

(26) In view of the complexity of offshore oil and gas operations, the implementation of the best practices by the operators requires a scheme of independent **■** verification of safety *and environmental* critical elements *throughout the lifecycle of the installation including, in the case of production and/or fixed installations, the design stage.*

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(27a) *In so far as mobile offshore drilling units are in transit and are to be considered ships, they are subject to international maritime conventions notably SOLAS, MARPOL or the equivalent standards of the applicable version of the Code for the construction and equipment of mobile offshore drilling units (MODU CODE). Such mobile offshore drilling units when in transit in offshore waters are also subject to applicable instruments of Union law concerning port State control and compliance with flag State requirements. This Directive addresses such units when they are stationed in offshore waters for drilling, production or other activities associated with offshore oil and gas operations.*

(28) Risk *management* in the *report on major hazards* should take into account *risks* to the environment, including the *impact of* climatic conditions and climate change have on the long term resilience of the installations; and given that offshore oil and gas *operations* in one Member State can have significant adverse environmental effects in another Member State, it is necessary to establish and apply specific provisions in accordance with the *UNECE* Convention on Environmental Impact Assessment in a Transboundary Context (*ESPOO*). *Member states with coasts who are inactive in offshore oil and gas operations should appoint contact points in order to facilitate effective cooperation in this regard.*

(28a) *Operators should notify Member States without delay that a major accident has occurred, or may be about to occur, in order that the Member State can initiate a response as appropriate. Therefore, the operator should include in the notification suitable and sufficient particulars concerning the whereabouts, magnitude and nature of the actual or imminent major accident, the operator's own response, and the worst case escalation scenario including transboundary potential.*

- (29) In order to ensure effective response to emergency situations, operators should prepare ***internal*** emergency response plans ***that are site specific and*** based on risks and hazard scenarios identified in the ***report on major hazards***, submit them to competent authorities, and maintain such resources as are necessary for prompt execution of those plans when needed. ***The adequate availability of response resources should be assessed against the capacity to deploy them at the site of an accident. The readiness and effectiveness of emergency resources should be assured and regularly tested by the operators. Where duly justified, response arrangements can rely on speedily transporting the response equipment such as capping devices, and other resources, from remote locations.***
- (29a) ***Best global practice requires licensees and operators to take primary responsibility for controlling the risks they create by their operations, including operations conducted by contractors on their behalf and therefore to establish within a corporate major accident prevention policy the mechanisms and highest level of corporate ownership to implement the said policy consistently throughout the organisation in the EU and overseas.***
- (29b) ***Responsible operators and owners of non-production installations should be expected to conduct their operations worldwide in accordance with best practices and standards. Consistent application of such best practices and standards should become mandatory within the Union whereas it would be desirable that operators registered in the territory of a Member State apply the major accident prevention policy when operating outside Union waters to the extent possible within the applicable national legal framework.***
- (29c) ***While recognising that there is no enforcement capacity in this regard, Member States should ensure that operators and owners of non-production installations include their offshore oil and gas operations outside of the Union in their major accident prevention policy documents.***

- (29d) Information on major accidents in offshore operations outside the Union can help in further understanding their potential causes, in promoting learning of key lessons and in further developing the regulatory framework. Therefore, all Member States, including the landlocked Member States and the Member States with offshore waters which do not have offshore operations or licensing activities, should request reports on major accidents which involve companies registered in their territory, and should share this information at Union level. The reporting requests should not interfere with emergency response or the legal proceedings related to the accident. Instead they should focus on the relevance of the accident for further developing the safety of offshore oil and gas operations in the Union.*
- (29e) Member States should expect operators, in following best practices, to establish effective cooperative relationships with the competent authority, supporting best regulatory practice by the competent authority and to proactively ensure the highest levels of safety, including, where necessary, suspending operations without the necessity of intervention by the competent authority.*
- (30) To ensure that no relevant safety concerns are overlooked or ignored, it is important to establish and encourage adequate means for the *confidential* reporting of those concerns and the protection of whistleblowers. *While Member States have no enforcement capacity outside the Union, these means should enable the reporting of concerns of persons involved in oil and gas operations outside the EU.*
- (31) The sharing of comparable data between Member States is rendered difficult and unreliable due to the lack of a common data reporting format across all Member States. A common data reporting format for reporting by operators to the Member State would provide transparency of the safety and environmental performance of operators and would provide public access to relevant and Union-wide comparable information on safety of offshore oil and gas *operations* and assist in disseminating lessons learned from major accidents and near misses.

- (32) In order to ensure uniform conditions for sharing information and encouraging transparency of performance of the offshore sector, implementing powers should be conferred on the Commission ***regarding the format and details of information to be shared and to be made publicly available***. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers¹.
- (33) The advisory procedure should be used for the adoption of relevant implementing acts ***given that those acts are mainly of a mere practical nature. Therefore, the application of the examination procedure would not be justified.***
- (34) To facilitate public confidence in the authority and integrity of EU wide offshore activity, Member States should provide reports of activity and incidents and ***should, without delay, inform the Commission, and any other Member State whose territory or waters are affected, as well as the public concerned,*** of major accidents ■ , and the Commission should publish reports periodically on levels of EU activity and trends in ***the safety and environmental*** performance of the offshore sector.
- (35) Experience shows that ensuring the confidentiality of sensitive data is necessary to foster an open dialogue between the competent authority and the operator. To that effect the dialogue between offshore operators and all Member States should be based on relevant existing international instruments and EU acquis on access to environmentally relevant information subject to any overriding requirement for safety and environment protection.

¹ OJ L 55,28.2.2011,p.13.

- (36) The value of collaborations between offshore authorities has been clearly established by the activities of the North Sea Offshore Authorities Forum and the International Regulators Forum. Similar collaboration *has been* established across the Union *in an expert group namely the European Union Offshore Oil and Gas Authorities Group (EUOAG) so as to promote efficient collaboration between national representatives and the Commission disseminating best practises and operational intelligence, establishing priorities for raising standards, and for advising the Commission on regulatory reform*¹.
- (37) Emergency response and the contingency planning for major offshore *accidents* will be made more effective by a systematic and planned cooperation between Member States and between Member States and industry, as well as by the sharing of compatible *response* assets including expertise. Where appropriate, those arrangements should also make use of the existing resources and assistance available from within the Union, in particular through the European Maritime Safety Agency and the EU Civil Protection Mechanism. *Member States may also request additional assistance from the Agency through the EU Civil Protection Mechanism established by the Council Decision 2007/779/EC.*
- (37a) *Under Regulation (EC) No 1406/2002, the European Maritime Safety Agency ('the Agency') is established for the purpose of ensuring a high, uniform and effective level of maritime safety and prevention of pollution by ships within the Community as well as ensuring a response to marine pollution caused by oil and gas installations.*
- (38) The implementation of the obligations under this *Directive* should consider that marine waters covered by the sovereignty or *sovereign rights and* jurisdiction of Member States form an integral part of the four marine regions identified in the Article 4(1) of Directive 2008/56, namely the Baltic Sea, the North-east Atlantic Ocean, the Mediterranean Sea and the Black Sea. For this reason, *the European Union should, as a matter of priority, strengthen* coordination ■ with third countries having sovereignty or *sovereign rights and* jurisdiction over waters in such marine regions. Appropriate cooperation frameworks include regional sea conventions, as defined in Article 3(10) of Directive 2008/56.

¹ *OJ C 18, 21.1.2012, p.8.*

- (39) In relation to the Mediterranean Sea, in conjunction *with* the current *Directive*, the necessary actions are being undertaken for the accession of the European Union to the Protocol for the Protection of the Mediterranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil ('the Offshore Protocol') to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean ('the Barcelona Convention'), which was approved by Council Decision 77/585/EEC¹.
- (40) The Arctic waters *are* a neighbouring marine environment of particular importance for the *European Union, and play an important role in mitigating climate change. The serious environmental concerns relating to the Arctic waters*, require special attention to ensure the environmental protection of the Arctic in relation to any offshore *oil and gas operations, including exploration, and taking into account the risk of major accidents and the need for effective response. Member States who are members of the Arctic Council are encouraged to actively promote the highest standards with regard to environmental safety in this vulnerable and unique ecosystem such as through the creation of international instruments on prevention, preparedness and response to Arctic marine oil pollution, and such as through building i.a. on the work of the Task Force established by the Arctic Council and the existing Arctic Council Offshore Oil and Gas Guidelines.*
- (41) National external emergency plans should be based on risk *assessment, taking into account the report on major hazards*. Related site specific emergency plans for the containment of accidents should take into account the most up to date Risk Assessment and Mapping Guidelines for Disaster Management (Commission Staff Working Paper SEC(2010) 1626 final of 21.12.2010).

- (42) Effective response to emergencies requires immediate action by the operator and close cooperation with *Member States emergency response organisations* which coordinate the introduction of additional emergency response resources as the situation develops. It also includes a thorough investigation of the emergency which should commence without delay so as to ensure minimum loss of relevant information and evidence. Following the incident, *Member States* should draw appropriate conclusions and take any necessary measures.
- (42a) *It is crucial that all relevant information, including the technical data and parameters, are available for the later investigation. Member States should ensure that relevant data is being collected during the operations and that in the event of an accident, relevant data is secured and data collection is intensified appropriately. In this context, Member States should encourage the use of adequate technical means in order to promote reliability and details of records and prevent possible manipulation.*
- (43) In order to ensure effective implementation of the requirements of this *Directive*, effective and proportionate *penalties* should be put in place.
- (44) In order to *adapt certain Annexes to include additional information which may become necessary in light of technical progress*, the Commission should be empowered to amend the requirements in *certain Annexes* to this *Directive* in accordance with *Article 290 of the Treaty on the Functioning of the European Union*. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
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- (46) The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

- (46a) *The definition of water damage in Directive 2004/35/EC should be amended to ensure that the liability of licensees under the Directive applies to marine waters of Member States as defined in Directive 2008/56/EC.*
- (46b) *Not all Member States have offshore waters and, therefore, the provisions of this Directive are not relevant for Austria, the Czech Republic, Hungary, Luxembourg or Slovakia. It is nonetheless desirable that these Member States promote the principles and high standards existing in Union legislation for the safety of offshore oil and gas operations in their bilateral contacts with third states and with relevant international organisations.*
- (46c) *Not all Member States with offshore waters allow for offshore operations within the meaning of this Directive under their jurisdiction. These Member States are not engaged in the licensing and prevention of major accidents of such operations. Therefore, it would be a disproportionate and unnecessary obligation if these Member States had to transpose and implement all provisions of this Directive. Yet, accidents during offshore operations may affect their shores. Therefore, these Member States should, inter alia, be prepared to respond and investigate in the case of major accidents and should cooperate through contact points with other Member States concerned and with relevant third states.*
- (46d) *Given their geographical situation, landlocked Member States are neither engaged in the licensing and prevention of major accidents in offshore operations nor are they potentially affected by such accidents in other Member States' waters. Therefore, they should not have to transpose the majority of provisions of this Directive. However, where a company active, itself or through subsidiaries, in offshore oil and gas operations outside the Union is registered in a landlocked Member State, it is necessary, in order for all the interested players in the Union to benefit from the experience gained from accidents occurring in such operations outside the Union, that the landlocked Member State concerned requests the relevant company to provide a report on such accidents, which can be shared at Union level.*

- (47) Apart from the measures introduced in this *Directive*, the Commission should explore other appropriate means of improving the prevention of *major* offshore accidents and mitigation of their effects.
- (48) ***Operators should ensure they have access to sufficient physical, human and financial resources to minimise and rectify the impact of a major accident. However, as no existing financial security instruments, including risk pooling arrangements, can accommodate all possible consequences of extreme accidents, the Commission should proceed with further analysis and studies of the appropriate measures to ensure adequately robust liability regime for damages related to offshore oil and gas operations, requirements on financial capacity including availability of appropriated financial security instruments or other arrangements . This may include an examination of the feasibility of a mutual compensation scheme. The Commission should report on its findings, and if appropriate, should make proposals.***
- (49) At Union level, it is important that technical standards are complemented by a corresponding legal framework of product safety legislation that apply to all offshore installations in Union waters, and not just non-mobile production installations. The Commission should therefore proceed with further analysis of the product safety standards applicable to offshore oil and gas operations.

HAVE ADOPTED THIS *DIRECTIVE*:

CHAPTER I INTRODUCTORY PROVISIONS

Article 1

Subject and Scope

1. This **Directive** establishes minimum requirements for **preventing major accidents and limiting the consequences of major accidents** in offshore oil and gas operations █ .

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5. **This Directive shall apply without prejudice to** Union legislation █ concerning health and safety of workers at work, notably Council Directives 89/391/EEC and 92/91/EEC.

6. This **Directive** shall apply without prejudice to Directives **94/22/EC, 2001/42/EC █ , 2003/4/EC, 2003/35/EC, 2010/75/EU and 2011/92/EU.**

Article 2

Definitions

For the purpose of this **Directive**:

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1a. **'acceptable' in relation to a risk, means a level of risk for which the time, cost or effort of further reducing it would be grossly disproportionate to the risk. In assessing whether the time, cost or effort would be grossly disproportionate to the benefits of further reducing the risk, regard shall be had to best practice risk levels compatible with the undertaking.**

2. **'acceptance' means the conveyance in writing to the operator or the owner of the non-production installation by the competent authority that the report on major hazards, if implemented as described, meets the requirements of this Directive. Acceptance does not imply any transfer of responsibility for control of major hazards to the competent authority.**

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4. 'combined operation' *means* an operation carried out from *an* installation with another installation or installations for purposes related to the other installation(s) which thereby materially affects the risks to the safety of persons or the protection of the environment on any or all of the installations;
5. 'commencement of operations' *means* the point in time when the installation *or connected infrastructure* is involved *for* the first time in the operations for which it is designed for;
6. 'competent authority' *means* the *public* authority, appointed pursuant to this *Directive* and responsible for *the duties as assigned to it in this Directive. The competent authority may be comprised of one or more public bodies*;
- 6a. *'licensing authority' means the public authority, as defined in Article 1 (1) of Directive 90/531/EEC, which is responsible for granting authorisations and/or monitoring use thereof provided for in Directive 94/22/EC.;*

- 7a. *'connected infrastructure' means, within the safety zone or within a nearby zone of a greater distance from the installation at the discretion of the Member State:*

any well and associated structures, supplementary units and devices connected to the offshore installation;

any apparatus or works on or fixed to the main structure of the offshore installation;

any attached pipeline apparatus or works;

- 8a. *'contractor' means any entity contracted by the operator to perform specific tasks on behalf of the operator;*

8b. *'entity' means any natural or legal person or any group of such persons;*

9a. *'safety zone' means the area within a distance of 500 meters from any part of the installation, established by the Member State.*

10a. *'exploration' means drilling into a prospect and all related offshore oil and gas operations necessary prior to production related operations;*

11. 'external emergency response plan' *means* local, national or regional strategy to prevent escalation or limit consequences of *a major* accident related to offshore oil and gas operations using all resources *available to the operator as* described in internal emergency response plans, *and any supplementary resources made available by the Member States;*

12. 'independent verification' *means* an assessment and confirmation of the validity of particular written statements by *an entity or organisational part of the operator or the owner of the non-production installation* that is not under the control *of or influenced* by, the *entity or organisational part using* the statements;

13. 'industry' *means entities* that are directly involved in offshore oil and gas *operations* pursuant to this *Directive* or whose activities are closely related to those operations;

14a. *'installation' means a stationary fixed or mobile facility, or a combination of facilities permanently inter-connected by bridges or other structures, used for offshore oil and gas operations or in connection with these operations; this includes mobile offshore drilling units only when they are stationed in offshore waters for drilling, production or other activities associated with offshore oil and gas operations*

15. 'internal emergency response plan' **means a document** prepared by **the** operators pursuant to requirements of this **Directive** of the measures to prevent escalation or limit consequences of **a major** accident related to offshore oil and gas operations ■ ;

15a. '**licence**' **means an authorisation for offshore oil and gas operations pursuant to Directive 94/22/EC;**

16. 'licensed area' **means** the geographical area covered by the **licence**;

17. 'licensee' **means the holder or joint holders of a licence**;

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18a. '**major accident**' **means, in relation to an installation or connected infrastructure:**

- (a) an explosion, fire, loss of well control, release of oil, gas or dangerous substances involving, or with a significant potential to cause, fatalities, or serious personal injury,**
- (b) an incident leading to serious damage to the installation or connected infrastructure involving , or with a significant potential to cause, fatalities or serious personal injury,**
- (c) any other event leading to death or serious injury to five or more persons on the offshore installation from which the source of danger occurs or is engaged in an operation on or in connection with the installation or connected infrastructure; or**
- (d) any major environmental incident resulting from paragraphs (a) to (c).**

Where an installation is normally unattended, paragraphs (a), (b) and (d) shall apply as if that installation were attended.

18b. *'major environmental incident' means an incident which results, or is likely to result, in significant adverse changes to the environment, having regard to significance under Directive 2004/35/EC;*

19. *'major hazard' means a situation with the potential to result in a major accident;*

19a. *'material change' means,*

a) *in the case of a report on major hazards, a change to the basis on which the original report was accepted including inter alia physical modifications, availability of new knowledge or technology and operational management changes;*

b) *in the case of a notification of a well operation or a combined operation, a change to the basis on which the original notification was submitted including inter alia physical modifications, change of installation, availability of new knowledge or technology and operational management changes.*

20. *'non-production installation' means an installation other than an installation used for production of oil and gas;*

20a. *'offshore' means situated in the territorial waters, the Exclusive Economic Zone or the continental shelf of the Member State within the meaning of the United Nations Convention on the Law of the Sea (UNCLOS);*

21a. *'offshore oil and gas operations' means all activities associated with an installation or connected infrastructure, including design, planning, construction, operation and decommissioning thereof, related to exploration and production. This does not include conveyance of oil and gas from one coast to another;*

22a. *'operator' means the entity appointed by the licensee or by the licensing authority to conduct offshore oil and gas operations, including planning and executing a well operation or managing and controlling the functions of a production operation;*

24. *'owner of a non-production installation' means an entity* legally entitled to control the operation of a non-production installation;

25. *'production ' means offshore extraction* of oil and gas from the underground strata of the licensed area including offshore processing of oil and gas and its *conveyance* through connected infrastructure ;

26. *'production installation' means* an installation used for production ;

28. *'public' means* one or more *entities* and, in accordance with national legislation or practice, their associations, organisations or groups;

30a. *'risk' means the combination of the probability of an event and the consequences of the event;*

30b. *'safety and environmental critical elements' means such parts of an installation and its plant, including computer programmes, a purpose of which is to prevent or limit the effect of a major accident, or the failure of which could cause or contribute substantially to a major accident;*

31. *'suitable' means right or fully appropriate, including consideration of proportionate effort and cost,* for a given requirement or situation and based on objective evidence and demonstrated by an analysis, comparison with appropriate standards or other solutions used in comparable situations by other authorities or industry;

31a. *'tripartite consultation' means a formal arrangement to enable dialogue and cooperation between the competent authority, operators and owners of non-production installations, and worker representatives.*

32. 'well operation' *means* any operation concerning a well that can result in the accidental release of *materials that has the potential to lead to a major accident, including the drilling of a well related to offshore oil and gas operations , the repairing or modifying of a well , the suspension of operations and the permanent abandonment of a well;*

█

33a. *'oil spill response effectiveness' means the effectiveness of spill response systems in responding to an oil spill, on the basis of an analysis of the frequency, duration, and timing of environmental conditions that would preclude a response. The assessment of oil spill response effectiveness will be expressed as a percentage of time that such conditions are not present and will include a description of the operating limitations placed on the installations concerned as a result of that assessment.*

CHAPTER II
PREVENTION OF MAJOR ACCIDENTS
RELATED TO OFFSHORE OIL AND GAS OPERATIONS

Article 3

General principles of risk management in offshore oil and gas operations

1. **Member States shall require operators to ensure that** all suitable measures **are taken** to prevent major accidents from offshore oil and gas operations.█
2. **Member States shall ensure that operators shall not be relieved of their duties** under this **Directive** by the fact that actions or omissions leading or contributing to major accidents █ were carried out by **contractors**.
3. Should a major accident nonetheless occur, **Member States shall ensure that** operators █ take all suitable measures to limit **its** consequences for human health and the environment █ .
4. **Member States shall require operators to ensure that offshore** oil and gas **operations** covered by this **Directive are** performed on the basis of a systematic **risk management so that the residual** risks of major accidents to people, the environment, and offshore assets are acceptable.

Article 4

Safety and environmental considerations relating to licences

1. **Member States shall ensure that decisions** on granting **or transferring of licences** for offshore oil and gas **operations** shall take into account the **capability of applicant** to meet **the** requirements for **operations** within the framework of **the licence** as required by the relevant provisions of Union law, in **particular** this **Directive**.
2. In particular, when assessing the technical and financial **capability of the applicant for a licence to carry out** offshore oil and gas **operations**, due account shall be taken of the **following**:

- (i) the risk, the hazards and any other relevant information related to the applicant and the licensed area concerned, including, where appropriate, the cost of degradation of the marine environment referred to in Article 8.1.c of Directive 2008/56/EC;*
- (ii) the particular stage of offshore oil and gas operations;*
- (iii) the applicant's financial capabilities, including any financial security, to cover liabilities potentially deriving from the offshore oil and gas operations in question; this shall include liability for potential economic damages where such liability is provided for by national law;*
- (iv) the available information relating to safety and environmental performance of the applicant, including with regard to major incidents, as may be appropriate to the operations for which the licence was requested.*

Before granting or transferring a licence, the licensing authority shall consult, where necessary, with the competent authority.

- 2a. Member States shall ensure that the licensing authority does not grant a license unless it is satisfied that the applicant has provided evidence that adequate provision has been or will be made on the basis of arrangements to be decided by Member States, to cover liabilities potentially deriving from its offshore oil and gas operations. This provision shall be valid and effective from the start of offshore oil and gas operations. Member State shall require entities applying for a license for offshore oil and gas operations to provide in an appropriate manner evidence of financial and technical capacity and any other relevant information related to the area concerned and the particular stage of offshore oil and gas operations.*
- (a) Member States shall assess the adequacy of provisions pursuant to paragraph 2(a) in order to ensure that the applicant has sufficient financial resources for the immediate launch and uninterrupted continuation of all measures necessary for effective response and subsequent remediation.*

- (b) *Member States shall facilitate the deployment of sustainable financial instruments and other arrangements to assist applicants for licenses to demonstrate their financial capacity pursuant to article 2(a).*
- (c) *Member States shall, as a minimum, establish procedures for ensuring prompt and adequate handling of compensation claims including in respect of compensation payments for trans-boundary incidents*
- (d) *The Member States shall require the licensee to maintain sufficient capacity to meet their financial obligations resulting from liabilities for offshore oil and gas operations covered by this Directive.*
- 2b. *The licensing authority or the licensee shall appoint the operator. Where the operator is to be appointed by the licensee, the licensing authority shall be notified of the appointment in advance. The licensing authority, if necessary in consultation with the competent authority appointed pursuant to Article 8, may object to the appointment of the operator. Where such an objection is raised, the Member States shall require the licensee to appoint a suitable alternative operator or assume the responsibilities of the operator under this Directive.*
- █
- 3a. *The licensing procedures for offshore oil and gas operations relating to the same licensed area shall be organised in such a way that information collected pursuant to exploration can be considered by the Member State prior to production operations being commenced.*
- █

- 4a. *When assessing the technical and financial capabilities of an applicant for a licence, special attention shall be paid to all ecologically sensitive marine and coastal environments, in particular ecosystems which play an important role in mitigation and adaptation to climate change, such as salt marshes and sea grass beds; and marine protected areas, such as special areas of conservation pursuant to the Habitats Directive, special protection areas pursuant to the Birds Directive, and marine protected areas as agreed by the Union or Member States concerned within the framework of any international or regional agreements to which they are party.*

Article 5

Public participation relating to effects of planned offshore oil and gas exploration operations on the environment

1. *The drilling of an exploration well from a non-production installation shall not be commenced unless the relevant authorities of the Member State have previously ensured that early and effective public participation on the possible effects of planned offshore operations on the environment pursuant to other Union legislation, notably either Directives 2001/42/EC or 2011/92/EC as appropriate has been undertaken. This Article does not apply to areas licensed before the entry into force of this Directive.*
- 1a. *Where public participation has not been undertaken pursuant to paragraph 1, Member States shall ensure that the following arrangements are made:*
- (a) the public is informed, whether by public notices or other appropriate means such as electronic media, where it is planned to allow exploration operations;*
 - (b) the public concerned is identified, including the public affected or likely to be affected by, or having an interest in, the decision to allow exploration operations, including relevant non-governmental organisations, such as those promoting environmental protection and other relevant organisations;*

- (c) *relevant information about such planned operations is made available to the public including inter alia information about the right to participate in decision-making, and to whom comments or questions may be submitted;*
- (d) *the public is entitled to express comments and opinions when all options are open before decisions to allow exploration are made;*
- (e) *in making those decisions, due account is taken of the results of the public participation;*
- (f) *having examined the comments and opinions expressed by the public, the Member State shall promptly inform the public about the decisions taken and the reasons and considerations upon which those decisions are based, including information about the public participation process;*
- (g) *reasonable time-frames are provided allowing sufficient time for each of the different stages of public participation;*
- (h) *[].*

Article 6

Offshore oil and gas operations within licensed areas

1. *Member States shall ensure that production installations and connected infrastructure are only operated in licensed areas by operators appointed for that purpose pursuant to Article 4(2b).*
 - 1a. *Member States shall require the licensee to ensure that any operator has the capacity to meet the requirements for specific operations within the framework of the license.*
 - 1b. *Throughout operations, Member States shall require the licensee to take all reasonable steps to ensure that operator meets the requirements, carries out its functions and discharges its duties under this Directive.*

1c. *Where the competent authority determines that the operator no longer has the capacity to meet the relevant requirements under this Directive, the licensing authority shall be informed. Thereafter, the licensee shall be notified by the licensing authority thereof and shall assume responsibility for the execution of the duties concerned and nominate forthwith a replacement operator.*

3a. *Member States shall ensure that operations relating to production and non-production installations shall not commence or continue without the acceptance of the report on major hazards by the competent authority pursuant to this Directive.*

4. *Member States shall ensure that well operations or combined operations shall not be commenced or continued without submission of the report on major hazards for the installations involved and its acceptance pursuant to paragraph 3 of this Article.*
Furthermore, *such* operations *shall* not be commenced and *continued* without submission of a well *notification* or combined *operation* notification pursuant to *Article 9* to the competent authority or if the competent authority expresses objections to the content of *a notification*.

5. *Member States shall ensure that a safety zone is established around an installation and that vessels are prohibited from entering or remaining in that safety zone.*

This prohibition shall not apply to a vessel entering or remaining in the safety zone:

- (a) in connection with the laying, inspection, testing, repair, maintenance, alteration, renewal or removal of any submarine cable or pipe-line in or near that safety zone;*
- (b) to provide services for, to transport persons or goods to or from, or under the authority of the Member State to inspect, any installation in that safety zone;*
- (c) in connection with the saving or attempted saving of life or property;*

- (d) owing to stress of weather; or*
- (e) when in distress; or*
- (f) if there is consent from the operator or the Member State.*

6. Member States shall establish a mechanism for effective participation in tripartite consultation between relevant employers, employees and the competent authority in the formulation of standards and policies dealing with major accident prevention.

Article 7

Liability for environmental damage

Without prejudice to the existing scope of liability relating to the prevention and remediation of environmental damage pursuant to Directive 2004/35/EC, Member States shall ensure that the licensee is financially liable for the prevention and remediation of environmental damage as defined in that Directive, caused by offshore oil and gas operations carried out by, or on behalf of, the licensee or the operator.

Article 8

Appointment of the competent authority

- 1. Member States shall appoint a competent authority responsible for the following regulatory functions under this Directive:**
 - (a) assessing and accepting reports on major hazards, assessing design notifications, and assessing notifications of wells or combined operations, and other such documents that are submitted to it;***
 - (b) overseeing compliance with this Directive including inspections, investigations and enforcement actions;***
 - (c) advising other authorities or bodies, including the licensing authority;***

- (d) making annual plans pursuant to Article 20;*
- (e) producing reports;*
- (f) cooperating with the competent authorities and the contact points established in other Member States pursuant to Article 32a.*

- 3a.** *Member States shall at all times ensure the independence and objectivity of the competent authority in carrying out its regulatory functions and particularly in respect of paragraphs 1(a)-(c). Accordingly, conflicts of interest shall be prevented between on the one hand the regulatory functions of the competent authority and on the other hand the regulatory functions relating to the economic development of the natural resources and licensing of offshore oil and gas operations within the Member State and the collection and management of revenues from those operations (hereinafter referred to as economic development).*
- 3b.** *To achieve the objectives set out in paragraph 3, Member States shall require that the functions of the competent authority under this Directive are carried out within an authority that is independent of any of the functions of the Member State relating to economic development.*
- 3c.** *However, where the total number of normally attended offshore installations is below 6, the Member State concerned may decide not to apply paragraph 3a. Such a decision shall be without prejudice to its obligations in paragraph 3.*
- 3d.** *Member States shall make available to the public a description of how the competent authority is organised, including why they have established the competent authority in such a way, and how they have ensured the delivery of the functions in paragraph 1 and the obligations in paragraph 3.*

4. Member States shall ensure that *the* competent authority *has* adequate *human and financial* resources to perform its *duties* according to this *Directive*. *These resources shall be commensurate with the level of offshore oil and gas operations of the Member States.*
- 4a. *Member States may enter into formal agreements with third parties, including appropriate Union agencies or other suitable bodies where available, for the provision of specialist expertise in support of the competent authority in carrying out its functions. For the purposes of this paragraph a body would not be deemed suitable where its objectivity may be compromised by conflicts of interest.*
- 4b. *Member States may establish mechanisms whereby the financial costs to the competent authority in carrying out its functions pursuant to this Directive may be recovered from licensees or operators or owners of non-production installations.*
-
- 5a. *Where the competent authority is comprised of more than one body, Member States shall make every effort to avoid duplication of regulatory functions between the bodies. Member States may designate one of the constituent bodies as the lead body with responsibility for the co-ordination of the duties assigned under this Directive and for reporting to the Commission.*
- 5b. *Member States shall review the activities of the competent authority and shall take any necessary measures to improve its effectiveness in carrying out the regulatory functions set out in paragraph 1.*

Article 8a

Functioning of the competent authority

1. *Member States shall ensure that the competent authority:*
- (a) *acts independently of policies, regulatory decisions or other considerations unrelated to its functions pursuant to this Directive;*

- (b) makes clear the extent of its responsibilities and functions and the responsibility of the operator for the control of major hazard risks, pursuant to Article 18;*
- (c) establishes a policy, process and procedures for thorough assessment of reports on major hazards and notifications pursuant to Article 9 as well as oversight, investigation and enforcement of compliance with the provisions of this Directive in its jurisdiction;*
- (cc) makes available the policy, process and procedures pursuant to paragraph (c) to operators and owners of non-production installations and makes available a summary thereof to the public;*
- (d) where necessary, prepares and implements coordinated or joint procedures with other authorities to undertake the duties pursuant to this Directive; and*
- (e) bases its policy, organisation and operational procedures on the principles set out in Annex III.*

Article 8b

Tasks of the European Maritime Safety Agency

- 1. The European Maritime Safety Agency (EMSA) shall provide the Commission and the Member States with technical and scientific assistance in accordance with its mandate under Regulation 1406/2002/EC.*
- 2. In this framework, the Agency shall:*
 - (i) assist the Commission and the affected Member State, on its request, in detecting and monitoring the extent of an oil or gas spill;*
 - (ii) assist Member States, at their request, with the preparation and execution of emergency response plans, especially when there are cross border impacts within and beyond Union waters;*

(iii) develop with Member States and operators a catalogue of emergency equipment and services available on the basis of their emergency plans.

3. *The Agency may, if requested:*

(i) assist the Commission in assessing the emergency plans of Member States to check whether the plans are in line with the Directive;

(ii) review exercises focussed on the test of cross-border and Union emergency mechanisms.

CHAPTER III

PREPARATION FOR AND CONDUCT OF OFFSHORE OIL AND GAS OPERATIONS

Article 9

***Documents to be submitted for undertaking offshore oil and gas operations
and operating █ installations***

1. ***Member States shall ensure that the operator █ or the owner of a non-production installation submits to the competent authority the following documents:***
 - (-a) in respect of the operator, a copy or an adequate description of the corporate major accident prevention policy pursuant to Article 18(1) and 18(4);***
 - (-aa) a copy or an adequate description of the company safety and environmental management system applicable to the installation pursuant to Article 18(3) and 18(4);***
 - (a) in the case of a planned production installation, a design notification in accordance with the requirements of Annex II, part 1;***
 - (b) a report on major hazards pursuant to Articles 10 and 11;***
 - (ba) a copy or an adequate description of the internal emergency response plan pursuant to █ Articles 12 and 29;***
 - (bb) a description of the scheme of independent verification pursuant to Article 15 (1) and (3)(a);***
 - (bc) in the case of a combined operation, one of the operators and owners of non-production installations concerned shall submit to the competent authority a notification of combined operations pursuant to Article 14;***
 - (bd) in the case of an existing production installation which is to be moved to a new production location where it is to be operated, a relocation notification in accordance with the requirements of Annex II, part 1;***

(be) any other relevant document requested by the competent authority.

- 1**
- 1a. The documents required under paragraph 1 (-a), (-aa), (ba) and (bb) shall be included in the report on major hazards required under paragraph 1(b).*
 - 1b. In the case of a material change, including dismantling of an installation pursuant to Articles 10 and 11, an amended report on major hazards shall be submitted pursuant to paragraph 1(b).*
 - 1c. In the case of a well operation, Member States shall ensure that the operator of the well submits to the competent authority a notification of well operations and provision of well operations information pursuant to Article 13, prepared in accordance with Article 15(1) and (3)(b).*
 - 2. The **1** design notification shall be submitted to the competent authority within a deadline set by the competent authority before the intended submission of a report on major hazards for the planned operation.*
 - 2a. The competent authority shall respond to the design notification with comments to be taken into account in the report on major hazards.*
 - 2b. The competent authority shall receive the relocation notification at a sufficient early stage in the proposed development to enable the operator to take into account any matters raised by the competent authority during the preparation of the report on major hazards.*
 - 2c. Where an existing production installation is to enter or leave the waters of a Member State, the competent authority shall be notified in writing prior to the date on which the production installation is due to enter or leave the Member State's waters.*

- 2d. *Where there is a material change to the design or relocation notification prior to the submission of the report on major hazards, the competent authority shall be notified of the change as soon as possible.*
3. The *report on major hazards* shall be *submitted* to the competent authority within a deadline set out by the competent authority █ before the planned commencement of operation

Article 10

Report on major hazards for a production installation

1. The *report on major hazards* for a production installation shall contain the details specified in Annex II, parts 2 and 5 *and be updated whenever appropriate or when so required by the competent authority.*
- 1a. *Member States shall ensure that workers' representatives are consulted at the relevant stages in the preparation of the report on major hazards for a production installation, and that evidence is provided to this effect in accordance with Annex II, part 2(2).*
2. A *report on major hazards* for a production installation may be prepared in relation to a group of installations subject to the agreement of the competent authority.
3. Where █ modifications are *to be* made to the production installation *that leads to a material change*, or it is intended to dismantle *a fixed production installation, the report on major hazards* for a production installation shall be amended in accordance with Annex II, part 6 and submitted to the competent authority.
- █
- 4a. *Where further information is necessary before a report on major hazards can be accepted, Member States shall ensure that the operator provides, at the request of the competent authority, such information and makes any necessary changes to the submission of the report on major hazards.*

5. The amended ***report on major hazards*** for a production installation pursuant to paragraph 3 shall be submitted to the competent authority within a deadline specified by ***the*** competent authority **█**. ***Member States shall ensure that the planned modifications are not brought into use or, as the case may be, dismantlement is not*** commenced until the competent authority has accepted the amended ***report on major hazards for the*** production installation.

█

6. The ***report on major hazards*** for a **█** production installation shall be subject to ***a thorough*** periodic review by the operator at least every ***five*** years or ***when so*** required by the competent authority. The results of the review shall be notified to the competent authority.

Article 11

Report on major hazards for a non-production installation

1. ***The report on major hazards*** for a non-production installation shall contain the details specified in Annex II, parts 3 and 5 ***and be updated whenever appropriate or when so required by the competent authority.***
- 1a. ***Member States shall ensure that workers' representatives are consulted at the relevant stages in the preparation of the report on major hazards for a non-production installation, and that evidence is provided to this effect in accordance with Annex II.3(2).***
2. Where **█** modifications are to be made to the non-production installation that leads to a material change, or it is intended to dismantle a fixed non-production installation, ***the report on major hazards for a non-production installation*** shall be amended in accordance with Annex II, part 6 (excluding paragraph 4) and submitted to the competent authority.

3. For a fixed non-production installation, an amended *report on major hazards* pursuant to paragraph 2 shall be submitted to the competent authority within a deadline specified by the competent authority. ***Member States shall ensure that the planned modifications are not brought into use or, as the case may be, dismantlement shall not commence until the competent authority has accepted the amended report on major hazards for the non-production installation.***
4. For a mobile non-production installation, an amended *report on major hazards* pursuant to paragraph 2 shall be submitted to the competent authority within a deadline specified by the competent authority. ***Member States shall ensure that the planned modifications are not brought into use until the competent authority has accepted the amended report on major hazards for the mobile non-production installation.***
5. Where further information is necessary before a *report on major hazards* can be accepted, ***Member States shall require the operator or the owner of a non-production installation to provide, at the request of the competent authority, such information and to make any necessary changes to the submission of the report on major hazards.***
6. The *report on major hazards* for a non-production installation shall be subject to a thorough periodic review by the operator ***or the owner of a non-production installation*** at least every 5 years ***or when so*** required by the competent authority. The results of the review shall be notified to the competent authority.

Article 12

Internal emergency response plans

1. ***Member States shall ensure that operators*** prepare internal emergency response plans ***in accordance with the requirements in Article 29*** taking into account the major accident risk ***assessment*** undertaken during preparation of the most recent *report on major hazards*. ***This shall include an analysis of the oil spill response effectiveness.*** In the case of drilling a well from a mobile non-production installation, the ***internal*** emergency response plan for the installation ***shall take into account the risk assessment undertaken during the preparation of the well notification.***

3. ***Where a non-production installation will be undertaking well operations and the internal emergency response plan must be amended due to the particular nature or location of the well, Member States shall ensure that the operator of the well submits a copy or an adequate description of the amended internal emergency response plan to the competent authority to support the relevant notification of the well operation.***
- 3a. ***In the event that a non-production installation will be undertaking combined operations, the internal emergency response plan shall be amended to cover the combined operations and submitted to the competent authority to support the relevant notification of the combined operations.***

Article 13

Notification of well operations and provision of well operations information

1. ***Member States shall ensure that the operator of the well submits to the competent authority within a deadline set by the competent authority before the commencement of the well operation a notification containing details of the design of the well and the proposed well operations in accordance with the requirements of Annex II, part 4. This shall include an analysis of the oil spill response effectiveness.***
2. The competent authority shall consider the notification and, ***if deemed necessary***, take ***appropriate*** action before the well operations commence, ***which could include prohibition of the start of the operations.***
3. ***Member States shall ensure that the operator of the well involves the independent verifier in planning and preparation of a material change to the details of the submitted well notification pursuant to Article 15(3)(b) and immediately inform the competent authority of any material change to the details of the submitted well notification. The competent authority shall consider those changes and, if deemed necessary, take appropriate action.***

- 3a. *Member States shall ensure that the operator of the well submits reports of well operations to the competent authority in accordance with the requirements of Annex IIa. The reports shall be submitted at weekly intervals, starting on the day of commencement of the well operations, or at intervals specified by competent authority.*

Article 14

Notification of combined operations

1. *Member States shall ensure that operators and owners of non production installations involved in a combined operation jointly prepare a notification containing details of the combined operation in accordance with the requirements of Annex II, part 7. Member States shall ensure that one of the operators and owners of non- production installations concerned submits the notification of combined operations to the competent authority. The notification shall be submitted within a deadline set by the competent authority before combined operations commence.*
2. *The competent authority shall consider the notification and, if deemed necessary, take appropriate action before the combined operations commence, which may include prohibition of the start of the operations.*
3. *Member States shall ensure that the operator who prepared the notification informs, without delay █, the competent authority of any material change to the submitted notification. The competent authority shall consider those changes and, if deemed necessary, take appropriate action.*

Article 15

Independent ■ verification

1. ***Member States shall ensure that operators and owners of non-production installations establish schemes for independent ■ verification and ■ describe such schemes within the description of the safety and environmental management system incorporated in the report on major hazards pursuant to Article 9.***
- 1a. ***The results of the independent verification shall be without prejudice to the responsibility of the operator or the owner of a non-production installation for the correct and safe functioning of the equipment and systems under verification.***
2. The selection of the independent ■ verifier and the design of schemes for independent ***verification*** shall meet the criteria of Annex II, part 5.
3. The ***schemes*** for independent ■ verification ■ shall be established:
 - (a) in respect of installations, to give independent assurance that the ■ ***safety and environmental*** critical elements identified in the risk ***assessment*** for the installation, ***as described in the report on major hazards***, are suitable and ***that*** the schedule of examination and testing of the ***safety and environmental critical elements*** is suitable, up to date and operating as intended;
 - (b) in respect of ***notifications of well operations***, to give independent assurance that the well design ***and well*** control measures are suitable to the anticipated well conditions ***at all times***.
- 3a. ***Member States shall ensure that operators and owners of non production installations respond to and take appropriate action based on the advice of the independent verifier.***

4. ***Member States shall require operators and owners of non-production installations to ensure that advice received from the independent verifier pursuant to this Article under paragraph 3(a) and the responses and actions to such advice are made available to the competent authority and retained by the operator or the owner of a non-production installation for a period of six months after completion of the offshore oil and gas operations to which they relate.***
5. ***Member States shall require operators of a well to ensure that the findings and comments of the independent verifier pursuant to this Article under paragraph 3(b) and their response and actions to these findings and comments are presented in the well notification pursuant to Article 13.***
6. For production installations, the verification scheme shall be in place prior to ***the completion*** of the ***design***. In the case of a non-production installation, the scheme shall be in place prior to the non-production installation being ***operated in Union waters***.

Article 16

Power of the competent authority in relation to operations on installations

1. ***Member States shall ensure that the competent authority:***
 - (a) ***prohibits*** the operation or bringing into operation of any installation or any ***connected infrastructure*** where the measures proposed ***in the report on major hazards*** for the prevention ***or*** mitigation of major accidents pursuant to ***Article 9*** are considered ***insufficient to meet the provisions of this Directive***.
 - (b) in exceptional situations and where it considers safety and environmental protection are not compromised, ***reduces*** the time limit for submission of the ***report on major hazards*** or notification ***pursuant to Article 9***.

- (c) *requires* the operator to take *such proportionate* measures that the competent authority considers necessary to restore compliance *with* Article 3 paragraph 1.
- (d) *where Article 6(1c) applies, takes adequate measures to ensure the continuing safety of operations.*
- e) *is empowered to require improvements and, if necessary, prohibit the continued operation* of any installation or any part thereof *or any connected infrastructure* where the outcome of an inspection, *a determination pursuant to Article 6(1c), a periodic review of the report on major hazards pursuant to Article 9* or changes to notifications pursuant to *Article 9*, show that the requirements of this *Directive* are not *being* met or there are reasonable concerns about the safety of operations or installations.

Article 17

Transboundary effects

CHAPTER IV
PREVENTION POLICY AND COMPLIANCE

Article 18

Major accident prevention by operators and owners of non-production installations

1. *Member States shall require operators and owners of non-production installations to prepare a document setting out their **corporate** major accident prevention policy and to ensure that it is implemented throughout ■ their offshore **oil and gas** operations, including by setting up appropriate monitoring arrangements to assure effectiveness of the policy.*
 - 1a. *The major accident prevention policy shall take account of the operators' primary responsibility for, inter alia, the control of major hazard risks, which are a result of its operations and for continuously improving control of said risks so as to ensure a high level of protection at all times.*
2. *A copy or an adequate description of the document referred to in paragraph 1 shall be submitted to the competent authority as ■ part of the **report on major hazards** pursuant to **Article 9** or the notification of well operations pursuant to **Article 9**.*
3. *Member States shall ensure that operators and owners of non-production installations describe their organisational arrangements for control of major hazards in the safety and environmental management system, including the arrangements for preparing and submitting reports on major hazards, and well notifications as appropriate, pursuant to **Article 9** and their schemes for independent ■ verification ■ pursuant to **Article 15**, and **Annex II** part 5.*

- 3a. *Member States shall create opportunities for operators and owners of the non-production installations to contribute to mechanisms for effective tripartite consultation established pursuant to Article 6(6). When appropriate, an operator's commitment to such mechanisms may be outlined in the major accident prevention policy developed pursuant to paragraph 1.*
4. The *major accident prevention* policy and *the safety and environmental* management systems shall be prepared in accordance with the requirements set out in Annex *II*, *parts (8) and (9) and Annex IV. The following conditions shall apply:*
- (a) *the major accident prevention policy shall be in writing and shall establish the overall aims and organisation for control of major accident hazards, and how these arrangements are put into effect at corporate level;*
- (b) *the safety and environmental management system shall be integrated within the overall management system of the operator and owner of the non-production installation and shall include organisational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the major hazards policy.*
- 4a. *Member States shall ensure that operators and owners of non-production installations prepare and maintain a complete inventory of emergency response equipment pertinent to their offshore oil and gas operation.*
5. *Member States shall ensure that operators and owners of non-production installations, in consultation with the competent authority and utilizing the exchanges of knowledge, information and experience as provided for in Article 27(1), prepare and revise standards and guidance on best practice in relation to the control of offshore major hazards throughout the design and operational lifecycle of offshore oil and gas operations, and as a minimum shall follow the outline in Annex IVb.*

- 6a. *Member States shall require that operators and owners of non-production installations ensure that their corporate major accident prevention policy document referred to in paragraph 1 also includes their production and non-production installations outside of the Union.*
7. *Where an activity carried out by an operator or an owner of a non-production installation poses an immediate danger to human health or significantly increases the risk of a major accident, Member States shall ensure that the operator or the owner of a non-production installation takes suitable measures which may include, if deemed necessary, suspending the relevant activity until the danger or risk is adequately controlled.*
8. *Member States shall ensure that where measures are taken as referred to in paragraph 7 to this Article, the operator or the owner of a non-production installation notifies, without delay and no later than 24 hours, the competent authority accordingly.*
9. *Member States shall ensure that, where appropriate, operators take suitable measures to use adequate technical means or procedures in order to promote reliability of the collection of details of the drilling parameters' records and prevent possible manipulation thereof.*

Article 18a

Offshore oil and gas operations conducted outside the Union

1. *Member States shall require companies registered in their territory and conducting, themselves or through subsidiaries, offshore oil and gas operations outside the Union as licence holders or operators to report to them, on request, the circumstances of a major accident in which they have been involved.*

2. ***In the request for a report pursuant to paragraph 1, the relevant Member State shall specify the details of the information required. Such reports shall be exchanged under the provisions of Article 27(1). Member States which have neither a competent authority nor a contact point shall submit the reports received pursuant to this Article to the European Commission.***

Article 19

Requirements for the competent authorities

█

Article 20

Securing compliance with the regulatory framework for major accident prevention

1. ***Member States shall ensure that operators and owners of non-production installations comply with █ the measures established in the *report on major hazards* and in the plans referred to in the well notification and combined operations notification█ .***

█

- 1a. ***Member States shall ensure that operators and owners of non-production installations provide the competent authority, or any other persons acting under the direction of the competent authority, with transport to or from an installation or vessel associated with oil and gas operations (including the conveyance of their equipment) at any reasonable time, and with accommodation, meals, and other subsistence in connection with the visits to the installations, for the purpose of facilitating competent authority oversight, including inspections, investigations and enforcement of compliance with the provisions of this Directive.***

█

4. ***Member States shall ensure that the competent authority develops annual plans for effective oversight, including inspections, of major hazard activities based on risk management and paying particular regard to compliance with the report on major hazards, internal emergency response plans, well operations notifications and combined operations notifications submitted to the competent authority pursuant to Article 9. The effectiveness of the plans shall be regularly reviewed and the competent authority shall take any necessary measures to effect improvements thereto.***

Article 21

Confidential reporting of safety concerns

1. ***Member States shall ensure that the competent authority establishes mechanisms:***
 - (a) ***for confidential reporting of safety and environmental concerns related to offshore oil and gas operations from any source; and***
 - (b) ***to investigate these reports while maintaining the anonymity of the individuals concerned.***
2. ***Member States shall require operators and owners of non-production installations to communicate details of the national arrangements pursuant to paragraph 1 to their employees, contractors and sub contractors connected with the operation and their employees, and to ensure that reference to confidential reporting is included in relevant training and notices.***

CHAPTER V
TRANSPARENCY AND SHARING OF INFORMATION

Article 22

Sharing of Information

1. **Member States shall ensure that the operators and owners of non-production installations provide to the competent authority** , as a minimum, the information described in Annex VI.
2. The Commission shall determine by means of an implementing act a common data reporting format and the details of information to be shared. This implementing act shall be adopted in accordance with the **█** procedure referred to in Article **36(2)**.

Article 23

Transparency

1. **Member States shall make the** information **referred to in** Annex VI **█** publicly available **█** .
2. The Commission shall by means of an implementing **act** determine a common publication format that shall enable easy cross-border comparison of data. This implementing act shall be adopted in accordance with the advisory procedure referred to in Article **36(2)**. **The** common publication format shall **allow** for a reliable comparison of national **█** practices **under** this Article and Article 24.

Article 24

Reporting on safety and environmental impact

1. Member States shall **submit** an annual report **to the Commission containing the information specified in Annex VI (2a)**.
2. Member States shall designate an authority to be responsible for exchanging information pursuant to Article 22 and publication of information pursuant to Article 23 .
3. The Commission shall publish **an annual report** based on the information reported to it by Member States **pursuant to paragraph 1**.

Article 25

Investigation following a major accident

2. Member States shall **initiate** thorough investigations of major accidents .
3. A summary of the **findings** pursuant to paragraph 2 of this Article shall be made available to the Commission **either** at the conclusion of the investigation or at the conclusion of legal proceedings **as appropriate. The Member States shall make a non-confidential version of the findings publicly available.**
4. **Member States shall ensure that** the competent authority **implements** any recommendations of the investigation that are within its powers to act, **following the investigations pursuant to paragraph 2**.

Article 26

Confidentiality

CHAPTER VI COORDINATION AND COOPERATION

Article 27

Cooperation between Member States

1. The **Member State shall ensure that its competent authority** regularly **exchanges** knowledge, information and experience **with other competent authorities inter alia through the European Union Offshore Oil and Gas Authorities Group (EUOAG), and that it engages** in consultations on the application of relevant national and Union legal **frameworks** with the industry, other stakeholders and the Commission. **Member States who have appointed a contact point pursuant to Article 32a(1) shall receive this information.**
2. Information exchanged pursuant to paragraph 1 shall concern, in particular, the functioning of the measures for risk **management**, accident prevention, compliance verification and emergency response related to offshore oil and gas operations within the Union, as well as beyond its borders where appropriate.
3. **The Member State shall ensure that its competent authority participates in establishing clear joint priorities** for the preparation and updating of guidance **and standards** in order to identify and facilitate the implementation **and consistent application of best practices in offshore oil and gas operations.**
- 3a. **Within 1 year of the adoption of this Directive, the Commission shall present to the Member States a report on the adequacy of national expert resources for complying with the regulatory functions pursuant to this Directive which, if necessary, shall include proposals for ensuring all Member States have access to adequate expert resources.**

- 3b. *Within 3 years following the publication of this Directive in the Official Journal, the Member States shall notify the Commission of the national measures they have in place regarding access to knowledge, assets and expert resources, including pursuant to Article 8(4)(a).*

Article 28

Coordinated approach towards the safety of oil and gas operations at international level

CHAPTER VII
EMERGENCY PREPAREDNESS AND RESPONSE

Article 29

Requirements for internal emergency response plans

1. **Member States shall ensure that the operator or the owner of a non-production installation prepares internal emergency response plans which are :**
 - (a) **initiated to respond to any major accident or a situation with immediate risk of a major accident involving an installation or a connected infrastructure; and**
 - (b) **consistent with the external emergency response plan .**
2. **Member States shall ensure that the operator and the owner of a non-production installation maintains** equipment and expertise relevant to the **internal emergency response** plan to be available at all times, and shared as necessary with the **authorities of the relevant** Member State in the execution of the external emergency response plan.
3. The internal emergency **response** plan shall be prepared in accordance with the provisions of Annex **II point 10**, and updated **as a consequence of any material** change to the **report on major hazards or notifications submitted pursuant to Annex II**. Any such updates shall be **submitted** to the **competent** authority **pursuant to Article 9 and notified to the relevant authority or authorities** responsible for preparing the external emergency response plans for the area concerned
4. **The internal** emergency response plan shall be integrated with other **measures** relating to protection and rescue of personnel from the stricken installation so as to secure a good prospect of **personal safety and** survival.

Article 30

External emergency response plans and emergency preparedness

1. Member States shall prepare external emergency **response** plans covering all offshore oil and gas installations **or connected infrastructure** and potentially affected areas within their jurisdiction. **Member States shall specify the role and financial obligation of licensees and operators in the external emergency response and include reference to such information in the external emergency response plans.**
2. External emergency response plans shall be prepared **by the Member State in cooperation with relevant operators and owners of non- production installations and, as appropriate, licensees and the competent authority, and take into account** the internal emergency response plans of the **existing or planned installations or connected infrastructure in the subject area. Updates by an operator to the internal emergency response plans shall** be taken into account.
3. External emergency response plans shall be prepared in accordance with the provisions of Annex **V**, and made available to the Commission, **other potentially affected Member States** and to the public. **When making available their external emergency response plans the Member States shall ensure that disclosed information does not pose risks to safety and security of offshore oil and gas installations and their operation and does not harm the economic interests of the Member States or the personal safety and well-being of officials of Member States.**
4. Member States shall take **suitable measures** to achieve a high level of compatibility and interoperability of response equipment and expertise between all Member States in a geographical region, and further afield where appropriate. Member States shall encourage industry to develop compatible response **equipment and services** in the spirit of this paragraph.

6. Member States shall keep █ records of emergency response *equipment and services pursuant to Annex Va paragraph 1*. Those records shall be █ available to the other *potentially affected* Member States and *the Commission and*, on a reciprocal basis, *to* neighbouring third countries █ .
7. Member States █ , the operators *and the owners of non-production installations* shall regularly test their preparedness to respond effectively to offshore oil and gas accidents *in close cooperation with the relevant authorities of the Member States*.
8. *Member States shall ensure that competent authorities and the relevant Member States' contact points develop cooperation scenarios for emergency situations. These scenarios shall be regularly assessed and updated as necessary.*

Article 31

Emergency response

1. *Member States shall ensure that the operator or the owner of a non production installation notifies without delay* the relevant authorities of a major accident or of a situation with immediate risk of major accident. *The notification shall include the circumstances, including, where possible, its origin and possible impacts on the environment, of the situation and its potential major consequences.*
2. *Member States shall ensure that in the event of a major accident, the operator and the owner of a non production installation takes all suitable measures* to prevent escalation of the accident and to mitigate its consequences. *Relevant authorities of the Member States may assist the operator and supply additional resources to the operator.*
- █
4. In the course of the emergency response, the Member State shall collect the information necessary for *thorough investigation pursuant to Article 25(2)*.

CHAPTER VIIa
TRANSBOUNDARY EFFECTS

Article 32

*Transboundary emergency preparedness and response
of Member States with offshore oil and gas operations under their jurisdiction*

1. Where *a Member State considers that a major hazard relating to an offshore oil and gas operation under its jurisdiction is likely to have significant effects on the environment in another Member State, the Member State in whose jurisdiction the operation is to take place, shall, prior to the operation taking place, forward the relevant information to the potentially affected Member State and shall endeavour, jointly with the potentially affected Member State, to adopt measures to prevent damages.*

A Member State, that considers itself to be potentially affected, may always request the Member State in whose jurisdiction the operation is to take place, to forward all relevant information. The Member States concerned may jointly assess the effectiveness of the measures, without prejudice to the requirements of Article 8.1(a)-(c).

- 1a. *The hazards identified pursuant to paragraph 1 shall be taken into account in internal and external emergency response plans to facilitate joint effective response to an accident.*
 - 1b. *Where foreseeable transboundary effects of offshore oil and gas accidents risk to affecting third countries, Member States shall, on a reciprocal basis, make information available to the third countries.*

2. Member States shall coordinate *between themselves* measures related to areas beyond the *jurisdiction* of the Union in order to prevent potential negative *effects* of offshore oil and gas operations.

3. Member States shall regularly test their preparedness to respond effectively to accidents in cooperation with potentially affected Member States, relevant EU Agencies ***and, on a reciprocal basis, potentially affected*** third countries. The Commission may contribute to exercises focused on the test of ***transboundary*** emergency mechanisms.
4. In the event of a major accident, or of an imminent threat thereof, which causes or is capable of causing transboundary effects, the Member State under whose jurisdiction the ***accident or threat thereof occurs*** shall, without delay, notify the Commission and those Member States ***or third countries*** which may be affected by the emergency ***and shall continuously provide information relevant for effective emergency response.***

Article 32a

Emergency preparedness and response of Member States without offshore oil and gas operations under their jurisdiction

1. ***Member States without offshore oil and gas operations under their jurisdiction shall appoint a contact point in order to exchange information with relevant adjacent Member States.***
2. ***Member States without offshore oil and gas operations under their jurisdiction shall apply the provisions of Article 30 paragraphs 4 and 8 so as to ensure that adequate response capacity is in place in the event they are affected by an accident related to offshore oil and gas operations.***
3. ***Member States without offshore oil and gas operations under their jurisdiction shall coordinate their national contingency planning in the marine environment with other relevant Member States to the extent necessary to ensure the most effective response to a major accident.***

4. *Where a Member State without offshore oil and gas operations under its jurisdiction is affected by a major accident, it shall:*
- a) *take all appropriate measures, in line with the plan referred to in paragraph 3;*
 - b) *ensure that the information which is under its control and is available within its jurisdiction that may be relevant for a full investigation of the major accident is provided or made accessible on request to the Member State conducting the investigation pursuant to Article 25.*

Article 32b

Coordinated approach towards the safety of oil and gas operations at international level

1. *The Commission, in close cooperation with the Member States, shall promote cooperation with third countries that undertake offshore oil and gas operations in the same marine regions as Member States without prejudice to relevant international agreements.*
2. *The Commission shall facilitate the exchange of information between Member States with offshore oil and gas operations and adjacent third countries with similar operations in order to promote preventive measures and regional emergency response plans.*
3. *The Commission shall promote high safety standards for offshore oil and gas operations at international level in relevant global and regional fora, including those related to Arctic waters.*

CHAPTER VIII CLOSING PROVISIONS

Article 33

Penalties

Member States shall ***lay down the rules on*** penalties applicable to infringements of ***the national provisions adopted pursuant to this Directive*** and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. ***Member States shall notify these provisions to the Commission by two years after the entry into force of this Directive and shall notify it without delay of any subsequent amendment effecting them.***

Article 34

Delegated powers of the Commission

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 35 ***in order to adapt Annexes II, IIa, IVb and V to include additional information which may become necessary in light of technical progress. Such adaptations shall not result in substantial changes in the obligations as laid down in this Directive.***

█

Article 35

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The **■** power *to adopt delegated acts* referred to in Article 34 shall be conferred on the Commission for *a* period of **5 years** from the date of the entry of this *Directive into force*. *The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for period of an identical duration, unless the European Parliament or the Council opposes such extension not later than four months before the end of each period.*
3. The delegation of power referred to in Article 34 may be revoked at any time by the European Parliament or by the Council. A decision *to revoke* shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify *it* simultaneously *to* the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 34 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **two** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **two** months at the initiative of the European Parliament or *of* the Council.

Article 36

Committee procedure

1. The Commission shall be assisted by a committee. **That** committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Article 37

Amendment to Directive 2004/35/EC

*of the European Parliament and of the Council of 21 April 2004
on environmental liability with regard to the prevention and remedying
of environmental damage¹*

1. Article 2(1)(b) of that Directive shall be replaced by the following:

'(b) water damage, which is any damage that significantly adversely affects
 - (i) the ecological, chemical and/or quantitative status and/or ecological potential, as defined in Directive 2000/60/EC, of the waters concerned, with the exception of adverse effects where Article 4(7) of that Directive applies, or
 - (ii) the environmental status of the marine waters concerned, as defined in Directive 2008/56/EC, in so far as particular aspects of the environmental status of the marine environment are not already addressed through Directive 2000/60/EC;'
2. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the above paragraph within **two years** of the entry into force of this **Directive**. They shall forthwith inform the Commission thereof.

Article 37a

Reports to the European Parliament and to the Council

1. *The Commission shall, by 31 December 2014, submit to the European Parliament and to the Council a report on the availability of financial security instruments, and on the handling of compensation claims, accompanied by proposals as appropriate.*
2. *The Commission shall, by two years after entry into force of this Directive, transmit to the European Parliament and to the Council a report, on its assessment of the effectiveness of the liability regimes in the Union in respect of the damages caused by offshore oil and gas operations. This report shall include an assessment of the appropriateness of broadening liability provisions. The report shall be accompanied by proposals, if appropriate.*
3. *The Commission shall examine the appropriateness of bringing certain conduct leading to a major accident under the scope of Directive 2008/99/EC on the protection of the environment through criminal law. The Commission shall report on its findings by 31 December 2014 to the European Parliament and the Council, if appropriate accompanied by legislative proposals, subject to appropriate information being made available by Member States.*

Article 37b

Report and review

1. *No later than three years following the completion of transitional periods as defined by Article 38b, the Commission shall, taking due account of the efforts and experiences of competent authorities, assess the experience of the implementation of this Directive.*
2. *The Commission shall submit a report to the European Parliament and to the Council with the result of that assessment. That report shall include any appropriate proposals for amending this Directive.*

Article 38
Transitional provisions

Article 38a
Transposition

- 1. Member States shall bring into force the laws, regulations, and administrative provisions necessary to comply with this Directive within 24 months following the day of its publication in the Official Journal of the European Union. They shall immediately inform the Commission thereof.**

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

- 2. Member States shall communicate to the Commission the texts of the main measures of national law which they adopt in the field covered by this Directive.**
- 3. Member States with offshore waters which do not have offshore oil and gas operations under their jurisdiction, and which do not plan to license such operations, shall be obliged to inform the Commission thereof and to bring into force only those measures which are necessary to ensure compliance with the requirements under Articles 18a, 32a and 33. These Member States may not licence such operations until they have transposed and implemented the remaining provisions of this Directive and have informed the Commission thereof.**
- 4. Landlocked Member States shall be obliged to bring into force only those measures which are necessary to ensure compliance with the requirements under Article 18a.**

- 4a. *Where no company conducting operations pursuant to Article 18a is registered in a Member State to which either paragraph 3 or 4 relates on the day of the publication of this Directive, the transposition obligation in relation to Article 18a shall apply at the latest 12 months following any later registration of such a company in the Member State concerned.*

Article 38b

Transitional provisions

1. *In relation to owners of non-production installations, Member States shall apply the laws, regulations and administrative provisions adopted pursuant to Article 38a within 12 months from transposition.*
2. *In relation to operators of planned production installations, Member States shall apply the laws, regulations and administrative provisions adopted pursuant to Article 38a within 12 months from transposition.*
3. *In relation to planning and executing well operations by operators, Member States shall apply the laws, regulations and administrative provisions adopted pursuant to Article 38a within 12 months from transposition.*
4. *In relation to existing installations, Member States shall apply the laws, regulations and administrative provisions adopted pursuant to Article 38a from the date of scheduled regulatory review of risk assessment documentation with the maximum of 60 months from the entry into force of this Directive.*

Article 39

Entry into force

1. This **Directive** shall enter into force on the *twentieth* day following that of its publication in the Official Journal of the European Union.



Article 39a

Addressees

This Directive is addressed to the Member States.

Done at ...,

For the European Parliament

For the Council

The President

The President

ANNEX I

Public participation linked to authorisations under Directive 94/22/EC

I

ANNEX II

Information to be included in documents submitted to the competent authority pursuant to Article 9

1. INFORMATION TO BE SUBMITTED IN A DESIGN *OR* RELOCATION NOTIFICATION FOR A PRODUCTION INSTALLATION

Design *and relocation* notification for a production installation pursuant to Article 9 shall contain at least *the* following information:

- (1) the name and address of the operator of the installation;
- (2) a description of the *design process for the production operations and systems, from an initial concept to the submitted design or selection of an existing installation*, the relevant standards used, and the design *concepts included in the* process;
- (3) a description of the selected design concept in relation to the major hazard scenarios for the particular installation and its location, and the primary risk control features;
- (4) a demonstration that the concept *contributes to reducing* major hazard risks to an acceptable **■** ;
- (5) a description of the installation and the conditions at its intended location;
- (5a) *a description of the details of any environmental, meteorological and sea-bed limitations on safe operations, and the arrangements for identifying risks from seabed and marine hazards such as pipelines and the moorings of adjacent installations;*
- (6) a description of the types of major hazard operations to be carried out;
- (7) a general description of the safety *and environmental* management system by which the intended major hazard risk control measures will be maintained in good effect **■** ;

- (7a) a description of the independent verification schemes and an initial list of safety and environmental critical elements and their required performance;*
- (7b) where an existing production installation is to be moved to a new location to serve a different production operation, a demonstration that the installation is suitable for the proposed production operation;*
- (7c) where a non-production installation is to be converted for use as a production installation, a justification demonstrating that the installation is suitable for conversion to a production installation.*

2. INFORMATION TO BE SUBMITTED IN A *REPORT ON MAJOR HAZARDS FOR OPERATION OF A PRODUCTION INSTALLATION*

Reports on major hazards for a production installation pursuant to Article 10 shall contain at least *the* following information:

- (1) a description of the account taken of the competent authority's response to the design notification;
- (1a) *the name and address of the operator of the installation;***
- (2) a summary of any worker involvement in the preparation of the *report on* major hazards ■ ;
- (3) a description of the installation and *any association with other installations or* connected infrastructure ■ , including wells ■ ;
- (4) demonstration that all the major hazards have been identified, their likelihood and consequences assessed, *including any environmental, meteorological and sea-bed limitations on safe operations*, and that their control measures *including associated safety and environmental critical elements* are suitable so as to reduce risks of a major hazard event to persons and the environment to an acceptable *level; this demonstration shall include an assessment of any oil spill response effectiveness*;
- (5) details of the types of operations with major hazard potential to be carried out, and the maximum number of persons that can be on the installation at any time;
- (6) details of *equipment* and arrangements to ensure well control, process safety, containment of hazardous substances, prevention of fire and explosion, protection of the workforce from hazardous substances, and protection of the environment from an incipient major hazard event ■ ;

- (7) details of the arrangements to protect persons on the *installation* from major hazards, and to ensure their safe *escape*, evacuation and *rescue* and *arrangements* for the maintenance of control systems to prevent damage to the installation and the environment in the event *that* all personnel are evacuated;
- (8) relevant codes, standards and guidance used in the construction and commissioning of the installation;
- (9) information *regarding* the *operator's* safety *and environmental* management system *which is relevant to the production installation*;
- (9a) *a copy or an adequate description of the internal emergency response plan*;
- (10) *details of the independent* verification scheme ■ ;
- (11) any other relevant details, for example where two or more installations operate in combination in a way which affects the major hazard potential of either or all installations;
- (12) the information relevant to *other* requirements under this *Directive* obtained pursuant to *the major accident prevention requirements of Directive 92/91/EEC*;
- (12a) *in respect of operations to be conducted from the installation, any information relating to the prevention of major accidents resulting in significant or serious damage to the environment relevant to other requirements under this Directive, obtained pursuant to Directive 2011/ 92/EU.*
- (13) ■ an assessment of the identified potential environmental effects *resulting from the loss of containment* of pollutants *arising from a major accident*, and a description of the technical and non-technical measures envisaged to prevent, reduce or offset them, including monitoring.

3. INFORMATION TO BE SUBMITTED IN A REPORT ON MAJOR HAZARDS FOR A NON-PRODUCTION INSTALLATION

Reports on major hazards for a non-production installation pursuant to Article 9 shall contain at least *the* following information:

- (1) the name and address of the *owner* of the *non-production* installation;
- (2) a summary of any worker involvement in the preparation of the *report on* major hazards ■ ;
- (3) a description of the installation and, in the case of a mobile installation, details of its means of transfer between locations, and its stationing system;
- (4) details of the types of operations with major hazard potential that the installation is capable of performing, and the maximum number of persons that can be on the installation at any time;
- (5) demonstration that all the major hazards have been identified, their likelihood and consequences assessed, *including any environmental, meteorological and sea-bed limitations on safe operations* and that their control measures *including associated safety and environmental safety critical elements* are suitable so as to reduce risks of a major hazard event to persons and the environment to an acceptable *level; this demonstration shall include an assessment of any oil spill response effectiveness*;
- (6) details of plant and arrangements to ensure well control, process safety, containment of hazardous substances, prevention of fire and explosion, protection of the workforce from hazardous substances, and protection of the environment from an incipient major hazard event ■ ;

- (7) details of the arrangements to protect persons on the *installation* from major hazards, and to ensure their safe *escape*, evacuation and *rescue*, and *arrangements* for the maintenance of control systems to prevent damage to the installation and the environment in the event *that* all personnel are evacuated;
- (8) relevant codes, standards and guidance used in the construction and commissioning of the installation;
- (9) demonstration that all the major hazards have been identified for all *operations* the installation is capable of performing, and that the risks of a major hazard event to persons and the environment are reduced to an acceptable *level*;
- (10) details of *any* environmental, meteorological and sea-bed limitations on safe operations, and the arrangements for identifying risks from sea-bed and marine hazards such as pipelines and *the* moorings of adjacent installations;
- (11) information *regarding* the safety *and environmental* management system *which is relevant to the non-production installation*;
- (11a) a copy or an adequate description of the internal emergency response plan;*
- (12) *details of the independent* verification scheme ■ ;
- (13) any other relevant details, for example where two or more installations operate in combination in a way which affects the major hazard potential of either or all installations;
- (13a) in respect of operations to be conducted from the installation, any information relating to the prevention of major accidents resulting in significant or serious damage to the environment relevant to other requirements under this Directive, obtained pursuant to Directive 2011/92/EU.*
- (14) ■ an assessment of the identified potential environmental *effects resulting from the loss of containment* of pollutants *arising from a major accident*, and a description of the technical and non-technical measures envisaged to prevent, reduce or offset them, including monitoring

4. INFORMATION TO BE SUBMITTED IN A NOTIFICATION OF WELL OPERATIONS

Notification of well operations pursuant to Article 9 shall contain at least the following information:

- (1) the name and address of the operator *of the well*;
- (2) the name of the installation to be used and the *name and address of the operator of the installation*;
- (3) details that identify the well and any association with *installations and connected infrastructure*;
- (4) information on the well work programme, including the period of its operation, *details and verification of barriers against loss of well control (equipment, drilling fluids and cement etc), directional control of the well path, and limitations on safe operations in keeping with the risk management*;
- (4a) *in the case of an existing well, information regarding its history, and condition*;
- (5) any details concerning safety equipment to be deployed that are not described in the current *report on* major hazards for the installation;
- (6) a risk assessment incorporating a description of:
 - (a) the particular hazards associated with the well operation *including any environmental, meteorological and sea-bed limitations on safe operations*;
 - (b) the subsurface hazards;

- (c) any surface or subsea **█ operations** which introduce simultaneous major hazard potential;
- (d) suitable control measures;

█

- (8) details of the well configuration at the end of operations – i.e. permanently or temporarily abandoned; and where *production equipment has been placed into the well* for future use;

█

- (10) in the case of a modification to a previously submitted well notification, sufficient details to fully update the notification;
- (11) where a well is to be *constructed, modified or maintained* by means of a non-production installation additional information as follows:
 - (a) details of *any environmental, meteorological and sea-bed limitations on safe operations, and arrangements for identifying risks from sea-bed and marine hazards such as pipelines and the moorings of adjacent installations*;
 - (b) details of environmental conditions that have been taken into account within the internal emergency *response* plan for the installation;
 - (c) details of the provisions for emergency response including in the case of a major accident *affecting* the environment that are not described in the *report on* major hazards **█** , and;
 - (d) a description of how the management systems of the **█ operator of the well and the owner of the non-production installation █** are to be coordinated to ensure effective control of major hazards at all times.

- (12) *a report with findings of the independent well examination, including a statement by the operator of the well, after considering the report and findings of independent well examination by the independent verifier, that the risk management relating to well design and its barriers to loss of control are suitable for all anticipated conditions and circumstances;*
- (13) *the information relevant to this Directive obtained pursuant to the major accident prevention requirements of Directive 92/91/EEC;*
- (14) *in respect of the well operations to be conducted, any information relevant to other requirements under this Directive obtained pursuant to Directive 2011/92/EU relating to the prevention of major accidents resulting in significant or serious damage to the environment.*

█

5. INFORMATION TO BE SUBMITTED RELATING TO A VERIFICATION SCHEME

- █
- (5) In the case of █ an installation, *the information relating to the verification scheme for that installation submitted to the competent authority* shall include:
- (a) a statement *by the operator in the case of a production installation or the owner of a non-production installation after considering the report of* the independent █ verifier that the record of safety critical elements and *their* scheme of maintenance █ as specified in the *report on* major hazards █ are or will be suitable;
 - (b) a description of the verification scheme including the selection of independent █ verifiers, the means of verification that safety *and environmental* critical elements and any specified plant in the scheme remain in good repair and condition;
 - (c) *a description of* the means *of verification* referred *to* in subparagraph 5(b) *that shall include details of the principles that will be applied to perform the functions under the scheme and to keep the scheme under review throughout the lifecycle of the installation including;*
 - (i) *the* examination and testing █ of the safety *and environmental* critical elements by independent and competent *verifiers*;
 - (ii) verification of the design, standard, certification or other system of *conformity* of the safety *and environmental* critical elements █ ;
 - (iii) examination of work in progress
 - (iv) the reporting of any non-compliances █
 - (v) remedial actions taken by the operator.

6. INFORMATION TO BE PROVIDED IN RESPECT OF A *MATERIAL* CHANGE TO AN INSTALLATION, INCLUDING REMOVAL OF A FIXED INSTALLATION

Where *material* changes are to be made on the installation, the information provided to *the* competent authority pursuant to *Article 9* shall contain at least *the* following information:

1. the name and address of the operator, *or the owner* of the *non-production* installation;
2. a summary of any worker involvement in the preparation of the revised *report on major hazards*;
3. ■ sufficient details to fully update the earlier *report on major hazards* and associated internal emergency *response* plan for the installation and to demonstrate major hazard risks are reduced to an acceptable *level*;
4. in the case of taking a fixed production installation out of use:
 - (a) means of isolating all hazardous substances and in the case of wells connected to the installation, the permanent sealing of the wells from the installation and the environment;
 - (b) a description of major hazard risks associated with the *decommissioning* of the installation *to workers and the environment*, the total exposed population, and the risk control measures;
 - (c) emergency response arrangements to secure safe evacuation and *rescue* of personnel and to *maintain control systems for preventing* a major accident to the environment.

7. INFORMATION TO BE SUBMITTED IN A NOTIFICATION FOR COMBINED OPERATIONS

The notification for combined operations pursuant to Article 9 shall contain at least *the* following information:

- (1) the name and address of the operator *submitting* the notification;
- (2) in the event that other operators *or owners of non-production installations* are involved in the combined operations their names and addresses, including a confirmation that they agree with the contents of the notification;
- (3) a description, *in the form of a bridging document authorised by all parties to the document*, of how the management systems for the installations involved in the combined operation will be coordinated so as to reduce the risks from a major accident *to an acceptable level*;
- (4) details of any equipment to be used in connection with the combined operation but which is not described in the current *report on major hazards* for any of the installations involved in the combined operations;
- (5) a summary of the risk assessment performed by all operators *and owners of non-production installations* involved in the combined operations, which shall include:
 - (a) a description of any *operation* during the combined operation which may involve hazards with the potential to cause a major accident on or in connection with an installation;
 - (b) a description of any risk control measures introduced as a result of the risk assessment.
- (6) a description of the combined operation and a programme of work, which **█** the combined operation is expected to commence **█** .

8. INFORMATION TO BE SUBMITTED IN RESPECT OF A MAJOR ACCIDENT PREVENTION POLICY

The particulars submitted relating to the corporate major accident control policy relating to installations and wells shall include but not be limited to:

- (1) the responsibility at corporate board level for ensuring on a continuous basis that the major accident prevention policy is suitable, implemented, and operating as intended;*
- (2) measures for building and maintaining a strong safety culture with a high likelihood of continuous safe operation;*
- (3) the extent and intensity of process auditing;*
- (4) measures for rewarding and recognising desired behaviours;*
- (5) the evaluation of the company's capabilities and goals;*
- (6) measures for maintenance of safety and environmental protection standards as a corporate core value;*
- (7) formal command and control systems that include board members and senior management of the company;*
- (8) the approach to competency at all levels of the company;*
- (9) the extent to which particulars (1) – (8) are applied in the company's offshore oil and gas operations conducted outside the EU.*

9. INFORMATION TO BE PROVIDED IN RESPECT OF A SAFETY AND ENVIRONMENTAL MANAGEMENT SYSTEM

The particulars submitted pursuant to Article 9 relating to the safety and environmental management system shall include but not be limited to:

- (1) organisation structure and personnel roles and responsibilities;*
- (2) identification and evaluation of major hazards – their likelihood and consequences;*
- (3) integration of environmental impact into major accident risk assessments in the report on major hazards;*
- (4) controls of the major hazards during normal operations;*
- (5) management of change;*
- (6) emergency planning and response;*
- (7) limitation of damage to the environment;*
- (8) monitoring of performance;*
- (9) audit and review arrangements; and*
- (10) the measures in place for participating in tripartite consultations and how actions arising are put into effect.*

10. INFORMATION TO BE PROVIDED IN AN OPERATOR'S INTERNAL EMERGENCY RESPONSE PLAN

Internal emergency response plans shall include but not be limited to:

- (1) names and positions of persons authorized to initiate emergency procedures and the person directing the internal emergency response;*
- (2) name or position of the person with responsibility for liaising with the authority or authorities responsible for the external emergency response plan;*
- (3) a description of all foreseeable conditions or events which could cause a major accident, as described in the report on major hazards to which the plan is attached;*
- (4) a description of the actions that will be taken to control relevant conditions or events and to limit their consequences;*
- (5) a description of the equipment and the resources available, including for capping any potential spill;*
- (6) arrangements for limiting the risks to persons on the installation and the environment, including how warnings are to be given and the actions persons are expected to take on receipt of a warning;*
- (7) arrangements that coordinate with the escape, evacuation and rescue arrangements described in the report on major hazards for example as described in Annex II, part (7), to secure a good prospect of survival for persons on the installation during a major accident;*

- (7a) an estimate of an oil spill response effectiveness. Environmental conditions to be considered in this response analysis shall include:**
- (i) weather, including wind, visibility, precipitation and temperature;**
 - (ii) states, tides, and currents;**
 - (iii) ice and debris presence;**
 - (iv) of daylight; and**
 - (v) other known environmental conditions that might influence the efficiency of the response equipment or the overall effectiveness of a response effort;**
- (8) arrangements for providing early warning of the accident to the authority or authorities responsible for initiating the external emergency response plan, the type of information which shall be contained in an initial warning and the arrangements for the provision of more detailed information as it becomes available;**
- (9) arrangements for training staff in the duties they will be expected to perform, and where necessary coordinating this with external emergency responders;**
- (10) arrangements for coordinating internal emergency response with external emergency response.**
- (11) Evidence of prior assessments of any chemicals used as dispersants that have been carried out to minimize public health implications and further environmental damage.**
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ANNEX IIa

Information to be submitted pursuant to Article 13a when carrying out well operations

The provision of well operations information pursuant to Article 9 shall contain at least the following information:

- (1) the name and address of the operator of the well;*
 - (2) the name of the installation and the name and address of the operator of the installation;*
 - (3) details that identify the well and any association with installations or connected infrastructure;*
 - (4) a summary of the operations undertaken since the commencement of operations or since the previous report;*
 - (5) the diameter and true vertical and measured depths of:
 - (a) any hole drilled; and*
 - (b) any casing installed;**
 - (6) the drilling fluid density at the time of making the report; and*
 - (7) in the case of operations relating to an existing well, its current operational state.*
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ANNEX III

Provisions relating to the appointment and functioning of the competent authority pursuant to Articles 8 and 8a

1. PROVISIONS RELATING TO MEMBER STATES

1. For the purposes of appointing a competent authority responsible for the *duties conveyed by Article 8 of this Directive*, Member States shall *as a minimum undertake* the following **■** :

- (a) *make* organisational arrangements which allow *for the* duties *assigned to the competent authority* in this *Directive* to be effectively discharged, including arrangements for regulating safety and environmental protection in an equitable manner;
- (b) *prepare a* policy statement *describing* the aims of oversight and enforcement, and *the obligations on* the competent authority *to* achieve transparency, consistency, proportionality and objectivity in its regulation of offshore oil and gas *operations*.

■

2. Member States *shall* make the necessary provisions to bring the above arrangements *in paragraph 1* into effect, including:

- (a) *funding* sufficient specialist expertise available internally or by *formal agreements with third parties or both in order that the competent authority may* inspect and investigate *operations*, take enforcement action, and to handle *reports on major hazards* and notifications;
- (b) where there is reliance on external sources of expertise, *funding the preparation of* sufficient written guidance and oversight to maintain consistency of approach and to ensure the legally appointed competent authority retains full responsibility under this *Directive*;

- (c) ***funding*** essential training, communication, access to technology, travel and subsistence of competent authority staff ***for the execution of their functions, and to facilitate*** the active cooperation between competent authorities pursuant to Article 27;
- (d) where appropriate, to require operators ***or owners of non-production installations to reimburse*** the competent authority for the cost of its functions carried out pursuant to this ***Directive***;
- (e) ***fund and encourage*** research pursuant to the competent authority's functions under this ***Directive***;
- (f) ***to provide funding*** for the competent authority to make reports.

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2. PROVISIONS RELATING TO THE FUNCTIONING OF THE COMPETENT AUTHORITY

1. For the purposes of carrying out its functions pursuant to Article 8a effectively, the competent authority shall prepare:

- (a) a written strategy that describes its functions, priorities for action i.e. in design and operation of installations, integrity management and in emergency preparedness and response, and how it is organised;**
- (b) operating procedures that describe how it will inspect and enforce the execution of the duties of operators and owners of non-production installations under this Directive, including how it will handle, assess and accept reports on major hazards, handle well notifications and how the intervals between inspection of major hazard risk control measures, including to the environment, for a given installation or activity are to be determined;**
- (c) procedures for discharging its functions without prejudice to other responsibilities, for example onshore oil and gas operations, and arrangements pursuant to Directive 92/91/EC;**
- (d) where the competent authority is comprised of more than one body, a formal agreement establishing the necessary mechanisms for joint operation of the competent authority, including senior management oversight and monitoring and reviews, joint planning and inspection, division of responsibilities for handling reports on major hazards, joint investigation, internal communications, and reports to be published jointly externally.**

2. *The detailed procedures for assessment of reports on major hazards shall require all factual information and other particulars as required under this Directive, to be provided by the operator or the owner of the non-production installation. As a minimum the competent authority shall ensure that the following are submitted and that these requirements are clearly specified in guidance to operators or owners of non-production installations:*
- (a) all foreseeable hazards with the potential to cause a major accident, including to the environment have been identified, their risks evaluated and measures identified, including emergency responses, to control the risks;*
 - (b) the safety and environmental management system is adequately described to demonstrate compliance with the requirements in this Directive;*
 - (c) adequate arrangements have been described for independent verification, and for audit by the operator.*
3. *In undertaking a thorough assessment of reports on major hazards the competent authority shall ensure that:*
- (a) all factual information required is provided;*
 - (b) the operator or the owner of the non-production installation has identified all reasonably foreseeable major accident hazards that apply to the installation and its functions, together with potential initiating events, and that the methodology and evaluation criteria adopted for major accident risk management are clearly explained, including factors for uncertainty in the analysis;*
 - (c) the risk management have taken into consideration all relevant stages in the lifecycle of the installation and have anticipated all foreseeable situations including:*

- (i) how the design decisions described in the design notification have taken account of risk management so as to ensure inherent safety and environmental principles are incorporated;*
- (ii) how well operations are to be conducted from the installation when operating;*
- (iii) how well operations are to be undertaken and temporarily suspended before production commences from a production installation;*
- (iv) how combined operations are to be undertaken with other installation;*
- (v) how the decommissioning of the installation will be undertaken.*

- (d) how risk reduction measures identified as part of the risk management are intended to be implemented if necessary to reduce risks to an acceptable level;*
- (e) whether, in determining the necessary measures to achieve acceptable levels of risk, the operator has clearly demonstrated how relevant good practice and judgement based on sound engineering, best management practice, and human and organisational factors principles have been taken into account;*
- (f) whether, the measures and arrangements for the detection of, and the rapid and effective response to, an emergency are clearly identified and justified;*
- (g) how escape, evacuation and rescue arrangements and measures to limit escalation of the incident and reduce its impact on the environment are integrated in a logical and systematic manner, taking account of the likely emergency conditions in which they will be operated;*
- (h) how the requirements are incorporated in the internal emergency response plans and whether a copy or an adequate description of the internal emergency response plan has been submitted to the competent authority;*

- (i) whether the safety and environmental management system described in the report on major hazards is adequate to ensure control of the major hazard risks at each stage of the installation life cycle, and ensures compliance with all relevant legal provisions, and provides for auditing and implementing audit recommendations;*
 - (j) whether the scheme for independent verification is clearly explained.*
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ANNEX IV

Provisions by operators *and owners of non-production installations* for prevention of major accidents pursuant to Article 18

3. *Member States shall ensure that operators and owners of non-production installations:*
- (a) pay particular attention to evaluation of the reliability and integrity requirements of all safety *and environmental safety* critical systems and base their inspection and maintenance systems on achieving *the required* level of safety *and environmental* integrity;
 - (b) *take appropriate measures to ensure as far as reasonably practicable that there is no unplanned escape of hazardous substances from* pipelines, vessels and systems intended for their safe confinement. In addition, operators shall ensure that no single failure of a containment *barrier* can lead to a major *accident*;
 - (c) *prepare an inventory of available equipment, its ownership, location, transport to and mode of deployment at the installation and any entities relevant to the implementation of the internal emergency response plan. The inventory shall identify measures in place to ensure equipment and procedures are maintained in operable condition*;
 - (d) ensure they have a suitable framework for monitoring compliance with all relevant statutory provisions by incorporating their statutory duties in respect of major hazards *control* and environmental protection into their standard operating procedures; *and*
 - (e) pay particular attention to building and maintaining a strong safety culture with a high likelihood of continuous safe operation, including *with regard to securing cooperation of the workforce through, inter alia*:

- (i) *visible commitment to tripartite consultations and actions arising therefrom;*
- (ii) *encouraging and rewarding reporting of incidents and near-misses;*
- (iii) *working effectively with elected safety representatives;*
- (iv) *protecting whistleblowers.*

7. *Member States shall ensure that industry cooperates with competent authorities to establish and implement a priority plan for the development of standards, guidance and rules which will give effect to best practice in major accident prevention and limitation of consequences of major accidents should they nonetheless occur.*

ANNEX IVa

Particulars relating to a scheme of independent verification pursuant to Article 151.

1. *The independent verifier shall meet the following requirements with regard to its independence from the operator and the owner of the non-production installation:*
 - (a) *his function does not require him to consider any aspect of a safety and environmental critical element or specified plant in which he was previously involved prior to the verification activity or where his objectivity might be compromised;*
 - (b) *he is sufficiently independent of a management system which has, or has had, any responsibility for any aspect of a component in the scheme of independent verification or well examination so as to ensure he will be objective in carrying out his functions within the scheme.*

2. *Member States shall require that the operator and the owner of the non-production installation ensure that the independent verifier is able to meet the following requirements with regard to his competence:*
 - (a) *technical competence, including suitably qualified staff in adequate numbers and with sufficient experience;*
 - (b) *suitable allocation of tasks by the independent verifier to staff qualified to undertake them;*
 - (c) *suitable arrangements for the flow of information between the operator and the independent verifier;*
 - (d) *sufficient authority given by the operator to the independent verifier to be able to perform his functions adequately.*

3. *Material changes shall be referred to the independent verifier for him to undertake further verification, and the outcomes of further verification shall be communicated to the competent authority, if requested.*

ANNEX IVb

Information relating to priorities for cooperation between operators and owners of non-production installations and competent authorities pursuant to Article 18(5)

- 1. *The matters to be considered for establishing priorities for the development of standards and guidance shall give practical effect to major accident prevention and limitation of their consequences. The matters shall include:***
 - (a) improving well integrity, well control equipment and barriers and monitoring their effectiveness;***
 - (b) improving primary containment;***
 - (c) improving secondary containment that restricts escalation of an incipient major accident, including well blow-outs;***
 - (d) reliable decision making;***
 - (e) management and supervision of major hazard operations;***
 - (f) competency of key post holders;***
 - (g) effective risk management;***
 - (h) reliability assessment for safety and environmental critical systems;***
 - (i) key performance indicators;***
 - (j) effectively integrating safety and environmental management systems between operators and other entities involved in oil and gas operations.***
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ANNEX V

Information to be provided in emergency response plans pursuant to Article 30

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2. External emergency response plans prepared pursuant to Article 30 shall include but not be limited to:

- (a) names *and* positions of persons authorized to initiate emergency procedures, and of persons authorized to direct the external emergency response;
- (b) arrangements for receiving early warning of accidents, and the associated alert and *emergency response* procedures;
- (c) arrangements for coordinating resources necessary to implement the external emergency *response* plan;
- (d) arrangements for providing assistance to the internal emergency *response*;
- (e) a detailed description of the *external* emergency response arrangements;
- (f) arrangements for providing persons and organisations that may be affected by the accident with suitable information and advice relating to the accident;
- (g) arrangements for the provision of information to the emergency services of other Member States and the Commission in the event of a major accident with possible transboundary consequences;
- (h) arrangements for the mitigation of the negative impacts on wildlife both onshore and offshore including the situations where oiled animals reach shore earlier than the actual spill.

ANNEX Va

***Particulars to be included in the preparation of external emergency response plans
pursuant to Article 30***

1. The authority ***or authorities*** responsible for ***coordinating*** emergency ***response shall*** make the following provisions available:
 - (a) an inventory of available equipment, its ownership, location, ***means of*** transport to and mode of deployment at the ***site of the accident***;
 - (b) a description of the measures in place to ensure equipment and procedures are maintained in operable condition;
 - (c) an inventory of industry owned equipment that can be made available in an emergency;
 - (d) a description of the general arrangements for offshore oil and gas emergencies, including competencies and responsibilities of all involved parties and the bodies responsible for maintaining such arrangements;
 - (e) measures to ensure that equipment, staff and procedures are ***available*** and up to date ***and sufficient members of trained staff are available*** at all times.
 - (f) ***evidence of prior environment and health assessments of any chemicals foreseen for use as dispersants***

2. External emergency response plans shall clearly explain the role of ***the*** authorities, emergency responders, coordinators and other subjects active in emergency response, so that cooperation is ensured in all emergencies.

3. Arrangements *shall* include provisions for a major accident that potentially overwhelms the Member State or exceeds its boundaries by:
- (a) sharing *external emergency response* plans with adjacent Member States and the Commission;
 - (b) compiling *at cross-border level the* inventories of response assets, both industry and *publicly* owned and all necessary adaptations to make equipment and procedures compatible between adjacent countries and Member States;
 - (c) procedures for invoking the EU Civil Protection Mechanism (as established by Council Decision 2007/779/EC);
 - (d) arranging *transboundary* exercises of external emergency response ■ .
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ANNEX VI

Sharing of information and transparency

1. *The* common data reporting format for major hazard indicators ■ shall allow for comparing information between *competent authorities* and individual operators.
2. *The information to be shared by the competent authority and operators shall include information related to:*
 - (a) ■ unintended release of *oil, gas* or other hazardous substances, whether or not ignited;
 - (b) ■ loss of well control requiring actuation of well control equipment, or failure of a well barrier requiring its replacement or repair;
 - (c) failure of a *safety and environmental critical element*;
 - (d) significant loss of structural integrity, or loss of protection against the effects of fire or explosion, or loss of station keeping in *relation to a mobile* installation;
 - (e) vessels on collision course and actual vessel collisions with an offshore installation;
 - (f) helicopter accidents, on or near offshore installations ■ ;
 - (g) any fatal accident;
 - (h) any serious injuries to 5 or more people in the same accident;
 - (i) any evacuation of ■ personnel;
 - (j) a major *environmental incident* to the environment.

- 2a. *The annual reports to be submitted by Member States pursuant to Article 24 shall contain as a minimum the following information:*
- (a) *the number, age and location of installations;*
 - (b) *the number and type of inspections and investigations performed, any enforcement actions, decided prosecutions;*
 - (c) *incident data pursuant to the common reporting system required in Article 22;*
 - (d) *any major change in the offshore regulatory framework;*
 - (e) *the performance of offshore oil and gas operations in relation to prevention of major accidents and the limiting of consequences of major accidents that do occur.*
3. The information referred to in paragraph 2 shall consist of both factual information and analytical data regarding oil and gas operations, and shall be unambiguous. The information and data provided shall be such that the performance of individual operators can be compared, not only within the Member State but also among the industry as a whole between Member States.
4. The **■** information *collected and assembled* referred to in paragraph 2 *shall enable* to provide advanced warning for *potential* deterioration of safety and environmentally critical barriers, *and shall enable* to take proactive corrective measures. The information *shall* also *demonstrate* the overall effectiveness of measures and controls implemented by individual operators and industry as a whole, in particular to prevent major *accidents* and to minimize risks for the environment.
5. In order to meet the requirements of Article 23, a simplified format shall be developed to facilitate publication of relevant data pursuant to paragraph 2 and preparation of reports pursuant to Article 24 in a way that is easily accessible to public and facilitates cross border comparison of data.
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