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**NOTE**

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from: General Secretariat of the Council

to: Delegations

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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  
- Directive format

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Delegations will find in Annex a further revised text of the above proposal, amended in light of the discussions at the Working Party level and written comments received. Delegations should note that Articles 34-35 (delegated acts) will be revised at a later stage following the outcome of the examination of the provisions in the annexes.

Changes compared to the previous version are indicated in **bold underlined**; deletions are marked with **[ ]**; changes compared to the Commission proposal are indicated in **bold** and deletions by **[ ]**.

Proposal for a

**II DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
on safety of offshore oil and gas II 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

(1) 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 Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Article 191 of the TFEU establishes the objectives of preserving, protecting and improving the quality of the environment and creates an obligation for all Union action to be supported by a high level of protection based on the precautionary principle and preventive action and to prudent and rational utilisation of natural resources.
- (2) The objective of this **II Directive** is to reduce 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 **II** 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.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p.

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- (3) This II Directive should apply not only to future installations and operations but, subject to transitional arrangements, also to existing installations
- (4) The accidents related to offshore oil and gas operations in 2010, notably the Gulf of Mexico, have sparked 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 II accident are significant. By reducing the risk of pollution of marine waters, this initiative should therefore contribute to the protection of the marine environment and in particular to the achievement of 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)<sup>3</sup>.
- (6) The Marine Strategy Framework Directive, which requires addressing the cumulative impacts from all activities on the marine environment, is the environmental pillar of the Integrated Maritime Policy. This Policy is relevant to offshore oil and gas operations as it requires linking the particular concerns from each economic sector with the general aim of a comprehensive understanding of the oceans, seas and coastal areas, with the objective to develop 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. Production of offshore oil and gas is a significant element in EU security of energy supply.

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<sup>3</sup> OJ L 164, 25.6.2008, p. 19.

- (8) The existing fragmented regulatory framework applying to safety of offshore **oil and gas operations** in Europe and current industry safety practices do not provide an 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 timely deployed. Under existing liability regimes, the responsible party may not always be clearly identifiable and/or may not be able, or liable, to pay all the costs to remedy the damage it has caused.
- (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 **II obtaining** of an authorisation. In this context the **II 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 **II licensing** authority thoroughly examine also its capability for ensuring continued safe and effective operations under all foreseeable conditions. **When assessing the financial capability of operators applying for authorisation pursuant to Directive 94/22/EC, Member States should ensure that operators have the ability to pay for the consequences of damage caused by a major accident, taking account of most appropriate and available instruments (such as funds, bank guarantees, insurance and/or risk pooling).**
- (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 potential 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 damage<sup>4</sup>, and **II should** not **II** delegate their responsibilities in this regard to third parties contracted by them.

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<sup>4</sup> OJ L 143, 30.4.2004, p. 56

- (11) While general authorisations pursuant to Directive 94/22/EC guarantee II to the licensees exclusive rights for exploring for or producing oil and/or gas within a given area, II 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) Operators should at all times ensure that risks of a major accident are compatible with the undertaking of their operations. In addition operators should further reduce risks of a major accident as low as reasonably practicable, where the cost of further risk reduction would be grossly disproportionate the benefits achieved. The reasonable practicability of risk reduction measures should be kept under review in the light of new knowledge and technology developments.**

- (12) In accordance with Directive 85/337/EEC, as amended, which applies to exploration and exploitation of oil and gas operations, plans and projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to an assessment with regard to their effects and a requirement for development consent. In line with Directive 85/337/EEC when an activity is subject to development consent an effective public participation should be provided in accordance with the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

**(12a) Any exploration operation from a mobile installation should not be commenced unless there has previously been public participation on the effects of planned offshore oil and gas operations on the environment in line with Council Directive 2003/35/EC implementing 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 to persons and the environment. Best regulatory practices **|| should** secure effective regulation on safety and environment by integrating related functions into a joint competent authority **||**.
- (14) **|| Production installations should only be operated in licensed areas by licensees, or operators appointed by the licensee for that purpose, and that operators should be at all times competent to act in that regard.**
- (15) **|| The competent authority should be legally empowered and adequately resourced by the Member State to be capable of taking effective, proportionate and transparent enforcement action, including cessation of operations, in matters of unsatisfactory safety performance and environmental protection by operators.**
- (16) **|| Experience gained from offshore major accidents shows clearly that conflicts of interest must be avoided between regulatory functions relating to safety and the environment, and from regulatory functions relating to economic functions including licensing and revenues. Accordingly, the competent authority should be convincingly independent from all such economic functions of the Member State irrespective of the scale of expert resources available to the Member State for regulating offshore oil and gas operations.**
- (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 **|| specialised legislation** addressing the specific hazards of the offshore oil and gas sector.

- (18) This II 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 work <sup>5</sup> 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) <sup>6</sup>.
- (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 achieving desirable outcomes through thorough risk II management and reliable management systems.
- (21) Union best operating practices require II licensees and/or operators of installations II to establish effective corporate safety policies, II 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 II within a comprehensive safety management system and emergency response plan for the installation. Such policy, risk management measures and arrangements should be clearly described and compiled in II the report on major hazards. The II report on major hazards should be II complementary to the safety and health document referred to in Directive 92/91/EC and it should also include provisions on environmental risk II management and emergency plans. The II report on major hazards should also be required to be thoroughly assessed and accepted by II the competent authority II.

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<sup>5</sup> OJ L 183, 29.6.1989, p. 1

<sup>6</sup> OJ L 348, 28.11.1992, p. 9

- (22) In order to maintain the effectiveness of major accident risk controls in Union waters, **II the report on major hazards should II** 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. II No installation should be operated in Union waters unless the licensee or operator has submitted the report on major hazards to the competent authority and the competent authority has accepted it.**
- (23) Drilling and **II maintaining** oil and gas wells 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 **II** 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 **II** 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.
- (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 **II 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 **II** verification of safety critical elements **throughout the lifecycle of the installation including, in the case of production and/or fixed installations, the design stage.**



(27) II

(28) Risk II management in the II report on major hazards should take into account risk to the environment, including the impacts 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 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 an appropriate response. 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 site-specific emergency response plans based on risks and hazard scenarios identified in the II report on major hazards, submit them to competent authorities, and maintain such resources as are necessary for prompt execution of those plans when needed.

(29a) Best global practice requires licensees and operators to take primary responsibility or 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 will conduct their operations everywhere in accordance with best practices and standards and the Union should aim for consistent application of best practices and standards throughout Union waters. The licensees and operators based anywhere in the Union should therefore make best endeavours to follow Union practices when they operate overseas. Pursuant to this objective, Union based operators should support the Union by submitting reports, when so requested, to their Member State of offshore major accidents overseas in which they have been involved and to otherwise promote learning of key lessons and continuous improvement.**

**(29c) Operators, in following best practices, should endeavour to establish effective cooperative relationships with the competent authority, supporting best regulatory practice by the competent authority and proactively ensuring highest levels of safety, including, where necessary, ceasing 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 reporting of those concerns and the protection of whistleblowers.
- (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 **II 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. 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 powers<sup>7</sup>.
- (33) The advisory procedure should be used for the adoption of relevant implementing acts in order to ensure consistent exchange of relevant data across the Union.
- (34) To facilitate public confidence in the II integrity of EU wide offshore activity, Member States should provide reports of activity and incidents and II should inform the Commission of major accidents without delay, and the Commission should publish reports periodically on levels of EU activity and trends in safety and environment 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.
- (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 II has been II established across the Union in an expert group namely the European Union Offshore Oil and Gas Authorities Group (EUOAG)<sup>8</sup> so as to promote efficient collaboration between national representatives and the Commission II disseminating best practises and operational intelligence, establishing priorities for raising standards, and for advising the Commission on regulatory reform.

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<sup>7</sup> OJ L 55, 28.2.2011, p. 13

<sup>8</sup> OJ C 18, 21.1.2012, p. 8

- (37) Emergency response and the contingency planning for major offshore **II accident** 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.
- (38) The implementation of the obligations under this **II 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, coordination should be strengthened 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.
- (39) In relation to the Mediterranean Sea, in conjunction to the current **II 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/EEC<sup>9</sup>.
- (40) The serious environmental concerns relating to the Arctic waters, a neighbouring marine environment of particular importance for the Community, require special attention to ensure the environmental protection of the Arctic in relation to any offshore **oil and gas operations**, including exploration.

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<sup>9</sup> OJ L 240, 19.9.1977, p. 1.

- (41) National external emergency plans should be based on risk || management carried out with a view to preparing 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.
- (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 adjust the proposed minimum requirements to the latest development in technology and relevant practices, the Commission should be empowered to amend the requirements in the Annexes to this || Directive in accordance with the procedure referred to in Article 4 of the Regulation (EU) No 182/2011.
- (45) Consequently, in order to prevent major accidents related to offshore oil and gas and to limit their consequences, the power to adopt acts in accordance with Article 4 of the Regulation (EU) No 182/2011 should be delegated to the Commission in respect of the definition of the minimum basic requirements related to those operations according to the principles stated by this || Directive, notably in its Annexes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

(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.]<sup>10</sup>

**(46a) It is necessary to bring protection against water damage in Member States waters lying beyond the territorial boundaries by extending liability to operators in this regard throughout the Exclusive Economic Zone of Member States by virtue of an amendment to Directive 2004/35/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. They should be obliged to transpose all provisions of this Directive if and as soon as they have created the conditions for entities to apply for licences for offshore oil and gas operations under their jurisdiction.**

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<sup>10</sup> Recitals 44, 45 and 46 will be revised following the examination and revision of articles 34-35 (delegated acts) based on the outcome of the review of the nature of the elements (essential or non-essential elements) in the provisions of the annexes.

- (47) Apart from the measures introduced in this II Directive, the Commission should explore other appropriate means of improving the prevention of **major** offshore II accidents and mitigation of their effects.
- (48) **Operators should ensure they have 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. **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

## 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.** []
2. []
3. []
4. []
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**, 2003/4/EC, **2003/35/EC**, **2010/75/EU** and **2011/92/EU**.

#### *Article 2*

#### *Definitions*

For the purpose of this [] **Directive**:

1. 'acceptable' [] **in relation to** [] a risk, [] **means a risk of a magnitude compatible with the undertaking of operations for [] which the time, cost or trouble of further reducing it would be grossly disproportionate to the risk** [];
2. 'acceptance' [] means the conveyance in writing to the operator by the competent authority [] **that its [] assessment of the operator's [] report on major hazards is concluded** pursuant to the requirements of this [] **Directive**;
3. []



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 authorisation and/or monitoring use thereof. [];**
7. 'connected infrastructure' [] means [] **any well (and associated structures, supplementary units and devices) connected to the [] installation and any pipeline apparatus or works within 500 meters of the main structure of the offshore [] installation to which it is attached, as well as any apparatus or works on or fixed to the main structure of the offshore installation [];**
8. 'consenting procedure' [] means a procedure of thorough assessment of all relevant information concerning a planned offshore oil and gas operation by the competent authority, concluded by acceptance of the [] **report on major hazards** [] and **the** absence of objections to [] **the combined operation[] notification[] or well notification** submitted by **the operator[];**
- 8a. **‘contractor’ means any entity contracted by the operator to perform specific tasks under instruction by the operator;**
- 8b. **‘entity’ means any natural or legal person or any group of such persons;**
9. []
10. []

- 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 including** those 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** 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;
14. '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**;
15. 'internal emergency response plan' [] means an overview prepared by 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 authorisation [];
17. 'licensee' [] means the holder of a **licence** [];

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

(a) [] an explosion, fire, loss of well control, release of oil ~~and~~ gas or dangerous substances involving, or with a significant potential to cause, fatalit[]ies, 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, fatalit[]ies 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 environment 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.

18a. '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 and the continental shelf of the Member State within the meaning of the United Nations Convention on the Law of the Sea (UNCLOS);
21. 'offshore oil and gas operations' [] means all **[] activities associated with an offshore installation or connected infrastructure, including design, planning, construction and installation thereof,** related to exploring for, producing or processing of oil and gas offshore [];
22. 'operator' [] means the operator of a production installation, [] **the operator of** a non-production installation [] **or a well operator []**;
23. '[operator of a production installation]' [] means [] **an entity** appointed by the licensee to manage and control the main functions of a production installation;
24. '[operator of a non-production installation]' means [] **an entity** legally entitled to control the operation of a non-production installation;
25. 'production' [] means extraction [] of oil and gas from the underground strata of the **offshore** licensed area including offshore processing of oil and gas and its transportation through connected infrastructure [];
26. 'production installation' [] means an installation used for production of oil and gas;
27. []
28. 'public' [] means one or more [] **entities** and, in accordance with national legislation or practice, their associations, organisations or groups;
29. []
30. 'risk' [] means [] **the combination of the probability of an event and the consequences of the event**;

- 30a. 'safety critical element' 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;
- 30b. 'subcontractor' means an entity contracted by a contractor to perform specific tasks under instruction by the contractor;
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;
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 or the permanent abandonment [] of a well [];
33. 'well operator' [] means the [] **entity** appointed by the licensee to plan and execute a well operation.

## 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. [] Operators shall not be exonerated from their responsibilities under this [] **Directive** by the fact that actions or omissions leading or contributing to major accidents [] were carried out by [] **contractors and subcontractors []**.

3. Should a major accident nonetheless occur, **[ ] Member States [ ] shall ensure that operators, where necessary, together with the Member States [ ] affected, [ ]** 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 [ ]**.

#### *Article 4*

##### *Safety and environmental considerations [ ] relating to [ ] licences [ ]*

1. **Member States shall ensure that decisions on granting [ ] licences for offshore oil and gas [ ] operations [ ] shall take into account the capacity of applicants 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 capacity of the **[ ] applicants for [ ] a licence to carry out [ ] offshore oil and gas [ ] operations [ ]**, due account shall be taken of the risk, **the** hazards and any other relevant information related to the **licensed** area concerned and the particular stage of **[ ] offshore oil and gas operations** and also of the applicants' financial capacities, including any financial security and capacity to cover liabilities potentially deriving from offshore oil and gas **[ ] operations** in question, in particular liability for environmental damages.
- 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, by way of financial security, on the basis of arrangements to be decided by Member States, to cover liabilities potentially deriving from its offshore oil and gas operations, in particular liability for environmental damage. The financial security shall be valid and effective before the start of offshore oil and gas operations. Entities applying for a license for offshore oil and gas operations shall in an appropriate manner provide 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.**

3. **[] 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.**
4. **[]**

*Article 5*

*Public participation[] relating to planned offshore oil and gas exploration operations*

1. **[] The drilling of an exploration well from a non-production installation shall not be commenced unless there has previously been public participation on the effects of planned offshore oil and gas operations on the environment.**
- 1a. **// When carrying out the public participation pursuant to paragraph 1, Member States shall ensure that the public is given early and effective opportunities to participate. To that end, Member States shall ensure that:**
  - (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) 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;**
  - (c) the public is entitled to express comments and opinions when all options are open before a decisions to allow exploration are is made;**
  - (d) in making those decisions, due account is taken of the results of the public participation;**

(e) having examined the comments and opinions expressed by the public, the Member State makes reasonable efforts to 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;

(f) reasonable time-frames are provided allowing sufficient time for each of the different stages of public participation;

(g) they identify the public entitled to participate for the purposes of paragraph 1, including relevant non-governmental organisations.

1b. Paragraph 1a shall not apply where public participation has been ensured pursuant to other Union legislation, notably Directives 2001/42/EC or 2011/92/EC.

2.   

3. Public participation shall be organised so as to ensure that disclosure of information and involvement of the public shall not pose risks to safety and security of offshore oil and gas installations and their operation    **and shall not harm the commercial interests of the applicants or the Member State or the personal safety and well-being of officials of Member States.**

#### *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 licensees, or    operators    appointed by the licensee or the licensing authority for that purpose   .

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 the Directive.**
- 1c. Where the competent authority determines that the operator no longer has the capacity to meet the relevant requirements under this Directive, it informs the licensing authority. 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.**
2. [ ]
3. 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. 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.

#### *Article 7*

#### *Liability for environmental damage*

**Without prejudice to the liabilities existing 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 any [ ] operator participating in the offshore oil and gas operations on the basis of a contract with the licensee [ ].**

*Article 8*

**[] *Appointment of the competent authority***

1. Member States [] shall appoint a competent authority [] responsible for the [] **following duties:**
  - (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) producing reports [] pursuant to **its duties under this [] Directive**;
  - (c1) **making annual plans pursuant to Article 20;**

[]

- (c3) **cooperating with the competent authorities and the contact points established by this Directive in other Member States [] pursuant to Article 27.**

2. []

3. [] **Member States shall ensure that conflicts of interest are prevented between the regulatory functions of the competent authority under this Directive and the economic development and licensing of offshore oil and gas operations within the Member State, including policy for managing the [] revenues related to that licensing.**

**As a minimum the Member State shall:**

- (a) establish the regulatory functions of the competent authority so as to render it independent from the regulatory functions relating to economic development of the Member State, in particular by means of licensing of offshore oil and gas operations, and the policy for the collection and management/administration of the related revenues;**

**(b) place the competent authority within the governance structure of the Member State in the manner that effectively eliminates any conflicts of interest between safety and economic decisions concerning offshore oil and gas operations;**

**(c) grant to the competent authority sufficient autonomy to ensure it shall not be subject to adverse influence from the economic development functions of the Member State relating to offshore oil and gas operations.**

**3a Where the human resources pursuant to paragraph 4 do not permit structural separation of the competent authority from authorities responsible for licensing and, where appropriate, economic development, the Member State shall, in order to achieve functional separation between the authorities concerned, establish a line of accountability, solely or jointly as appropriate, between the competent authority and an appropriate public entity of the Member State that is not involved in economic development or licensing of offshore oil and gas operations.**

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.
5. [] Where the competent authority is comprised of more than one body, Member States shall ensure that duplication of regulatory functions between the bodies is [] avoided. 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.
- 5a. Member States shall monitor the effectiveness of the competent authority and shall take any necessary measures to effect improvements thereto.

*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;

**(aa) shall not carry out any activity where its objectivity may be compromised;**

[(b) [] makes clear the extent of its responsibilities and functions **and the primary responsibility of the operator**] for the control of major hazard risks, pursuant to Article 18 [];

[(c) [] establishes a policy, **process and procedure** 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;

(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 **policies**, organisation and operational procedures on the principles set out in Annex III.

**1a. Where the competent authority is solely or jointly accountable to a public entity established pursuant to Article 8 (3a), the competent authority shall, in respect of the public entity:**

**(a) submit for approval the annual plan pursuant to Article 20;**

**(b) report on progress against the annual plan;**

**(c) draw attention to any situation arising that may be perceived as actually or potentially infringing the independence of the competent authority pursuant to paragraph 1.**

**CHAPTER III**  
**PREPARATION FOR AND CONDUCT OF OFFSHORE OIL AND GAS [] OPERATIONS**  
**II**

*Article 9*

**Document to be submitted [] for operating [] installations**

1. **[] Member States shall ensure that the operator of an [] installation [] submits to the competent authority the following documents:**
  - (-a) a statement of the corporate major accident prevention policy pursuant to Article 18(1) and 18(4);**
  - (-aa) a copy of the company safety management system applicable to the installation pursuant to Article 18(3);**
  - (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;**
  - (b1) an internal emergency response plan pursuant to Articles 12 and 29;**
  - (b2) a description of the scheme of independent verification pursuant to Article 15 (1) and (3)(a);**
  - (b3) in the case of a combined operation, the operator of an installation, where it is agreed between the operators involved that he shall do so, shall submit to the competent authority a notification of combined operations pursuant to Article 14;**
  - (b4) 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;**

**(b5) any other relevant document requested by the competent authority.**

**(c) []**

**(d) []**

**1a. The documents required under paragraph 1 (-a), (-aa), (b1) and (b2) shall be included in the report on major hazards required under paragraph 1(b).**

**1b. In the case of a well operation, Member States shall ensure that the well operator 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 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 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.**

**2b. 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.**

**2c. 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 revised whenever appropriate or when so required by the competent authority.**
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.
4. 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 **[] before the planned works are commenced. 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 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 revised whenever appropriate or when so required by the competent authority**.
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 competent authority **[]** before the planned works are to be commenced. **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 **[]** before the installation is due to commence operations. **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 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 periodic review by the operator 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 **[] management** undertaken during preparation of the most recent **[] report on major hazards**. 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 [] management undertaken during the preparation of the well notification.**
2. **[]**
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 well operator [] submits 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 well operator [] 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.**
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 well operator [] involves [] an independent verifier [] acting within a scheme for independent verification as foreseen in [] 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. **Where well operations involve the risk of an unplanned release of oil and gas from the well, Member States shall ensure that the well operator submits reports to the competent authority in accordance with the requirements of Annex II, part 4A. 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 of [] installations which [] are to be 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 the operators [] concerned [] agree [] that one of them [] submits the notification of combined operations to the competent authority []. The notification shall be submitted [] within a deadline set by 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 [] establish [] schemes for independent [] verification [] and [] describe such schemes within the description of the safety 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 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 critical elements identified in the risk [] and safety management system for the installation, **as described in the report on major hazards**, are suitable [] and **that** the schedule of examination and testing **of the safety 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 respond to and take appropriate action based on the advice of the independent verifier.**
4. **Member States shall require operators [] 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 upon [] request and retained by the operator for a period of six months after completion of the offshore oil and gas operations to which they relate.**

5. **Member States shall require well operators [] 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 included in the well notification pursuant to Article 13.**
6. For production installations, the verification scheme shall be in place prior to submission of the [] **report on major hazards** to the competent authority. 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.**
7. []

#### *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 any [] measures that the competent authority considers necessary to restore compliance **[] with** Article 3 paragraph 1.
  - [] (d) [] is **[] empowered** to prohibit the [] **continued operation** of any installation or any part thereof **or any connected infrastructure** where the outcome of an inspection, 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*

1. Where a Member State considers that a **major hazard relating to an offshore oil and gas operation [] under its jurisdiction [] will potentially** have significant [] effects on [] **the environment in** another Member State [], or where a **potentially affected** Member State [] so requests, 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, **individually or jointly**, to adopt [] measures to prevent damages. **Where the potentially affected Member State [] does not have any offshore oil and gas operations, the Member State shall appoint a relevant contact point.**
2. Application of paragraph 1 is without prejudice to other relevant provisions of Union Law, in particular [] the Convention on Environmental Impact Assessment in a Transboundary Context.

**CHAPTER IV**  
**[] PREVENTION OF MAJOR [] ACCIDENTS**

*Article 18*  
*Major accident prevention by operators*

1. **Member States shall require operators [] to** prepare a document setting out their major accident prevention policy and **to** ensure that it is implemented throughout the organisation of their offshore operations, including by setting up appropriate monitoring arrangements to assure effectiveness of the policy. **Policies shall include operators' commitment towards continuously improving the control of major-accident hazards, and ensuring a high level of protection.**
2. 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** [] describe their organisational arrangements for control of major hazards in [] **the** safety 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.
4. The **major accident prevention** policy and **the** safety management systems shall be prepared in accordance with the requirements set out in Annex IV and shall make clear the operator's primary responsibility for **the** control of major hazard risks, which are a result of its [] **operations**.
5. **Member States shall ensure that operators, in consultation** [] with the [] competent authority, [] prepare and [] revise standards and guidance [] **on** best practice in **relation to the** control of offshore major [] hazards throughout the design and operation lifecycle of offshore **oil and gas** operations, and as a minimum shall follow the outline in Annex IV.
6. [] *Moved to Article 18a.*
7. **Where an activity carried out by an operator poses an immediate danger to human health or significantly increases the risk of a major accident, Member States shall ensure that operators take 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 notifies, without delay and no later than 24 hours, the competent authority accordingly.**

Article 18a

Offshore oil and gas operations conducted outside the Union

1. Member States shall require that licensees and operators based in their jurisdiction endeavour to conduct their offshore oil and gas operations when outside the Union in accordance with the principles set out in this Directive.
2. Member States shall require licensees and operators based in their jurisdictions to report to them, on demand, the circumstances of a major accident in which they have been involved
3. The Commission may request the relevant Member State to obtain a report concerning the circumstances of a major accident pursuant to paragraph 2 and to submit the report to the EU Offshore Oil and Gas Authorities Group.<sup>11</sup> The relevant Member State, where it is not a member of the EU Offshore Oil and Gas Authorities Group, shall be party to any consideration of the submitted report.

*Article 19*

*Requirements for the competent authorities*

*Moved to Article 8a*

1. []
2. []
3. []
4. []

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<sup>11</sup> OJ C 18, 21.1.2012, p. 8

## Article 20

### *Securing compliance with the regulatory framework for major accident prevention*

1. **Member States shall ensure that operators [] 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 provide the competent authority, or any other persons acting under the direction of the competent authority, with transport to or from an installation (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.**
2. []
3. []
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 [].**
5. *Moved to Article 8(5a)*

## Article 21

### *Anonymous reporting of safety concerns*

1. **Member States shall ensure that the competent authority [] establishes [] means to []:**  
  
**(a) anonymous reporting of safety and [] environmental concerns related to offshore oil and gas operations; and**



(b) [] investigate these reports while maintaining anonymity of the individuals concerned.

2. **Member States shall require** operators [] **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 anonymous 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 **the** competent authority [] share, 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)** [].
3. []

#### *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.

3. *[ ] Moved to Article 30(3)*

*Article 24*

*Reporting on safety and environmental impact [ ]*

1. *[ ]* Member States *[ ]* shall *[ ]* **submit** an annual report **to the Commission [ ]** **and the neighbouring Member States with a sea shore** containing the information specified in **Annex VI (2a)**.

*[ ] Moved to 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*

1. *[ ] Moved to Article 31(1)*
2. Member States shall *[ ]* **initiate** thorough investigations of major accidents *[ ]*.
- 2a. *[ ]* **Member States shall [ ]** **assess** the effectiveness of the competent authority's *[ ]* **oversight** of the installation concerned in the time preceding the accident and **shall** recommend*[ ]* adequate changes to the relevant regulatory practices where needed.
3. A summary of the *[ ]* **findings** pursuant to paragraphs 2 **and 2a** 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. Following [] **the** investigations pursuant to paragraph 2 **and 2a**, **Member States shall ensure that** the competent authority [] implements any recommendations of the investigation that are within its powers to act.

#### *Article 26*

#### *Confidentiality*

[]

### **CHAPTER [] VI COORDINATION AND COOPERATION**

#### *Article 27*

#### *Cooperation between Member States*

1. The **Member States** [] shall **ensure that the competent authorities** regularly exchange knowledge, information and experience **amongst each other and that they** [] engage 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 17(1) shall be entitled to 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. **Member States shall ensure that the competent authorities collectively establish** clear 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** [].
4. []

## Article 28

### *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 VII

### EMERGENCY PREPAREDNESS AND RESPONSE

## Article 29

### *Requirements for internal emergency response plans*

1. **Member States shall ensure that the operator prepares internal emergency response plans which are []:**
  - (a) [] initiated to **respond to [] any 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 [] 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 V, 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.
5. **Member States shall ensure that** the operator [] periodically tests the effectiveness of the internal emergency response plans.

#### *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. **The external emergency response plans shall specify the role and financial obligation of licensees and operators in the external emergency response.**
2. External emergency response plans shall be prepared [] **in** cooperation [] **with** relevant operators and, as appropriate, licensees, and [] **take into account** the internal emergency response plans of the **existing or planned** installations **or connected infrastructure** [] in the subject area. Any update **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.

4. Member States LL shall take all 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 LL shall encourage industry to develop compatible response LL **equipment and services** in the spirit of this paragraph.
5. LL
6. Member States LL shall keep LL records of emergency response LL **equipment and services pursuant to Annex V Section II (2) LL**. Those records shall be LL available to the other **potentially affected** Member States **and the Commission** and, on a reciprocal basis, LL to neighbouring third countries LL.
7. Member States LL and the operators shall regularly test their preparedness to respond effectively to offshore oil and gas accidents.

**7a. 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 adapted.**

### *Article 31*

#### *Emergency response*

1. **Member States shall ensure that** the operator LL notifies **without delay** the relevant authorities of a major accident or of a situation with immediate risk of major accident. LL **The notification shall include the circumstances of the situation and its potential major consequences.**
2. **Member States shall ensure that** in the event of LL **a major** accident, the LL **operator** LL takes all measures necessary 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 LL the operator.**

3. []
4. In the course of the emergency response, the Member State    shall collect the information necessary for a full [] **investigation** of the **major** accident.

### *Article 32*

#### *Transboundary emergency preparedness and response*

1. Where transboundary effects of offshore oil and gas accidents are foreseeable, **the** Member States **concerned** shall make **relevant** information available to the Commission and potentially affected Member States [] and take identified risks into account [] **in internal and** [] external emergency **response** plans. The Member States in question shall coordinate their emergency **response** plans to facilitate joint response to an accident. **Where transboundary effects of offshore oil and gas accidents are foreseeable and    risk to affect third countries, Member States shall make information available to the Commission and, on a reciprocal basis, to the third countries.**
2. Member States    shall coordinate **between themselves** measures related to areas beyond the boundaries of the Union in order to prevent potential negative affects 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 or **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.

## 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 [...] and shall notify it without delay of any subsequent amendment effecting them.**<sup>12</sup>

#### *Article 34<sup>13</sup>*

##### *Delegated powers of the Commission*

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 35 **[ ] concerning the adaptation of** the requirements to the latest development of relevant technologies and procedures in Annex **[ ] II-VI**.
2. The Commission may also adopt delegated acts in accordance with Article 35 **[ ]** to precise application of the requirements of **[ ] this Directive** in relation to:
  - (a) details to be submitted in a Design notification or a **[ ] report on major hazards** as specified in Annex II points 1, 2, 3, 6;
  - (b) notification of well/combined operations as specified in Annex II, point 4 and 7;

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<sup>12</sup> This article will be re-examined once all obligations in the draft Regulation/Directive are finalised.

<sup>13</sup> The text of Articles 34-35 will be revised once the examination of the nature of the elements (essential or non-essential elements) in the provisions of the annexes is finalised.



- (c) requirements related to verification by **the** independent [] **verifier** as specified in Annex II, point 5;
- (d) requirements for functioning and organisation of competent authority[] as specified in Annex III and;
- (e) requirements related to the prevention of major hazards by operators as specified in Annex IV.

### *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 an indeterminate period of time from the date of the entry of this [] **Directive** into force.
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. Th**[ ]at** 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 damage<sup>14</sup>*

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

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<sup>14</sup> OJ L 154, 30.4.2004, p. 56

- (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 [...] of the entry into force of this **II Directive**. They shall forthwith inform the Commission thereof.

#### *Article 38*

#### *Transitional provisions*

**II Moved to Article 38b below**

#### *Article 38a*

#### *Transposition*

1. Member States shall bring into force the laws, regulations, and administrative provisions necessary to comply with this Directive by [...]. 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 which have not yet created the conditions for entities to apply for licences for offshore oil and gas operations under their jurisdiction, shall bring into force only those measures which are necessary to ensure compliance with the requirements under Articles [3(3)], 7, 17, 18a, 25(2) and (3), 27, 28(1), 30, 31(4), 32(1) to (3), 33, 37, including the Annexes to which these provisions refer]. The obligations for transposition and implementation of the remaining provisions of this Directive shall apply to these Member States if and as soon as they have created the conditions for entities to apply for licences for offshore oil and gas operations under their jurisdiction.**<sup>15</sup>

*Article 38b*

*Transitional provisions*

[]

- [] 1. In relation to operators for non-production installations, Member States [] shall [] apply the laws, regulations and administrative provisions adopted pursuant to Article 38a [] from [...] [].
- [] 2. In relation to operators of planned production installations, Member States [] shall [] apply the laws, regulations and administrative provisions adopted pursuant to Article 38a [] no later than within [...] [].
- [] 3. In relation to well operators, Member States [] shall [] apply the laws, regulations and administrative provisions adopted pursuant to Article 38a [] within [...] [].

*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.

[] []

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<sup>15</sup> Se also recital 46c.

*Article 39a*

*Addressees*

**This Directive is addressed to the Member States with offshore waters.**<sup>16</sup>

Done at Brussels [.....]

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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<sup>16</sup> Se also recital 46b.

## ANNEX I

II

## ANNEX II

### Requirements on documents related to consenting procedure

#### **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 [] level;
- (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 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 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 justification demonstrating 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 operation.

## 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, and that their control measures **including associated safety critical elements** are suitable so as to reduce risks of a major hazard event to persons and the environment to an acceptable [] **level**;
- (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;
- (8a) information on the operator's major accident prevention policy pursuant to Article 18, and containing the details specified in Annex IV(1);**
- (9) **pursuant to Article 18**, information on the safety management system for **the** operations, maintenance **and** modification [] of the installation [], **submitted in line with Annex IV(2);**
- (9a) a copy of the internal emergency response plan pursuant to Articles 12 and 29, containing the details specified in Annex V, Part 1.(1) and (2);**
- (10) [] **details of the independent** verification scheme pursuant to section 5(2) to this Annex;
- (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 [];
- (13) [] **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.**

### **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 11 shall contain at least **the** following information:

- (1) 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, 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, and that their control measures **including associated safety critical elements** are suitable so as to reduce risks of a major hazard event to persons and the environment to an acceptable [] **level**;
- (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;
- (8a) information on operator's major accident prevention policy pursuant to Article 18, and containing the details specified in Annex IV(1);**
- (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) **pursuant to Article 18**, information on the safety management system for **the** operations, maintenance, and modification **of the installation, submitted in line with Annex IV(2)**;
- (11a) a copy of the internal emergency response plan pursuant to Articles 12 and 29, containing the details specified in Annex V, Part 1.(1) and (2)**;
- (12) **[ ] details of the independent** verification scheme pursuant to section 5(2) to this Annex;
- (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;
- (14) **[ ] 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.**

#### **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 well operator;
- (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 **[] management** 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;
- (7) []
- (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;
- (9) []
- (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 to the environment that are not described in the [] **report on major hazards**, and;
  - (d) a description of how the management systems of the well operator and **the operator of the installation** [] are to be coordinated to ensure effective control of major hazards at all times.
- (12) a statement of independent well examination pursuant to part 5 (1) of this Annex;
- (13) the information relevant to their requirements under 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.**

#### **[4A INFORMATION TO BE SUBMITTED WHEN CARRYING OUT WELL OPERATIONS**

**The provision of well operations information pursuant to Article 13 shall contain at least the following information:**

- (1) **the name and address of the well operator;**
- (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.]<sup>1</sup>

## 5. MATTERS RELATING TO A VERIFICATION SCHEME

- 1. The independent [] **verifier** shall meet the following requirements with regard to its independence from the operator of the installation, or the **proposed well operator** []:
  - (a) his function does not require him to consider any aspect of a safety critical element or specified plant in which he [] **was previously involved** 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. The **operator shall 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;

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<sup>1</sup> Insertion of this point 4A will be discussed.

- (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. For the purposes of Article 13 paragraph 3, a [] **material** change to a well notification will include:
- (a) any change having potential to [] **alter** the original design intent of the well plan particularly in regard to well control and other barriers to flow and their verification;
  - (b) any [] change to the plant or equipment, or management system or **change of** well operator notified pursuant to Annex II part 4;
  - (c) any change to the risk [] **management**, including where caused by conditions encountered during well operations.

[] **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**.

4. In the case of a well notification, a statement shall be included **by the operator after considering the report of 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.
5. In the case of operation of an installation, the [] **report on major hazards** shall include:
- (a) a statement **by the operator 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 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;** the examination and testing as necessary of the safety critical elements by independent and competent [] **verifiers**, verification of the design, standard, certification or other system of [] **conformity** of the safety critical elements, examination of work in progress, the reporting of any non-compliances, and remedial actions taken by the operator;

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

Where major changes are to be made on the installation, the information provided to **the** competent authority pursuant to Articles 10 and 11 shall contain at least **the** following information:

1. the name and address of the operator of the 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 14 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 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 **[] management** performed by all operators 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 **[] management**.
- (6) a description of the combined operation and a programme of work, which shall include the dates on which the combined operation is expected to commence. **[]**

### ANNEX III

#### Provisions by the competent authority for regulation of major hazards operations

1. For the purposes of appointing a competent authority responsible for the **duties related to the scope of this Directive** [], Member States shall address the following []:
  - (a) organisational arrangements which allow all duties in this [] **Directive** to be effectively discharged, including arrangements for regulating safety and environmental protection in an equitable manner;
  - (b) a policy statement [] **describing** the aims of oversight and enforcement, and how the competent authority will achieve transparency, consistency, proportionality and objectivity in its regulation of offshore oil and gas [] **operations**. The competent authority [] **shall** also make clear to the public the division of responsibilities of the regulator from the operator, the latter having primary responsibility for controlling risks, the former responsible for verifying that the operator has adequate measures in place that are likely to be effective in controlling major hazard risks;
  - (c) a strategy statement that describes the functions of the competent authority, its priorities for action (for example in design and operation of installations, integrity management and in emergency preparedness and response), and how it is organised;
  - (d) operating procedures that describe how the competent authority will inspect and enforce [] the **execution of the** duties of operators 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;
  - (e) procedures for discharging the functions of the competent authority under this [] **Directive** without prejudice to other responsibilities, for example onshore oil and gas operations, and arrangements pursuant to Directive 92/91/EC;

- (f) where the competent authority comprises two or more agencies, 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** externally **[]**.
2. Member States **[] shall** make the necessary provisions to bring the above arrangements into effect, including:
- (a) sufficient specialist expertise available internally or by **[] formal agreements with third parties in order** to 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, 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) **provision of** adequate resources for 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 **licensees or operators []** to **[] reimburse** the competent authority for the cost of its functions carried out pursuant to this **[] Directive**;
- (e) to undertake or **[] encourage** research pursuant to the competent authority's functions under this **[] Directive**;
- (f) for the competent authority to make reports.
3. **[] Procedures for the assessment of the report on major hazards and notifications shall be prepared by the competent authority and made available to operators. Information on assessment principles of reports on major hazards and notifications shall be prepared by the competent authority and made accessible to the public.**

- 3a. The detailed procedures for assessment of reports on major hazards shall require all factual information and other particulars as described in Annex II to this Directive and other particulars as subsequently agreed pursuant to this Directive, to be provided by the submitter. As a minimum the competent authority shall address the principal matters to be demonstrated:**
- (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 management system is adequate to ensure compliance with requirements in this Directive for control of major accident hazards;**
  - (c) adequate arrangements have been made for independent verification, and for audit by the operator.**
- 3b. 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 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 principles are applied;**
    - (ii) well operations to be conducted from the installation when operating;**

- (iii) well operations that are to be undertaken and temporarily suspended before production commences from a production installation;
  - (iv) combined operations undertaken with other installation;
  - (v) decommissioning of the installation.
- (d) 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) 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) the measures and arrangements for the detection of, and the rapid and effective response to, an emergency are clearly identified and justified;
  - (g) 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) the requirements of Annex V Part 1 are incorporated in the internal emergency response plans and the internal emergency response plan is included in the report on major hazards;
  - (i) the safety 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) the scheme for independent verification is clearly explained.

II

## ANNEX IV

### Provisions by operators for prevention of major accidents

1. For the purposes of implementing the operator's major accident prevention policy and safety management system pursuant to Article 18, account [] **shall** be taken of the following:
  - (a) the major accident prevention policy [] **shall** be established 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 management system [] **shall** be integrated within the overall management system [] **of** the operator and shall include organisational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the major hazards policy.
2. The safety management system shall include but not be limited to:
  - (a) organisation structure and personnel roles and responsibilities;
  - (b) identification and evaluation of major hazards – their likelihood and consequences;
  - (c) integration of environmental impact into major [] **accident risk [] management** in the [] **report on major hazards**;
  - (d) controls of the major hazards during normal operations;
  - (e) management of change;
  - (f) emergency planning and response;
  - (g) limitation of damage to the environment;
  - (h) monitoring of performance;
  - (i) audit and review arrangements.

3. Operators shall pay particular attention to evaluation of the reliability and integrity requirements of all safety critical systems and base their inspection and maintenance systems on achieving [] **the required** level of safety integrity.
4. Operators shall **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 hazard incident.
5. Operators shall 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.
6. Operators shall pay particular attention to building and maintaining a strong safety culture with a high likelihood of continuous safe operation including but not limited to:
  - (a) extensive process auditing;
  - (b) rewarding and recognising desired behaviours;
  - (c) regular evaluation of the organisations capabilities and goals;
  - (d) maintaining high standards as a corporate core value;
  - (e) formal command and control systems that include involving senior management and workforce [];
  - (f) competency at all levels of the operation;
  - (g) **visible commitment to tripartite consultations and actions arising there from.**
7. Industry shall cooperate with [] competent authorit[ies 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. The matters to be considered [] **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 critical systems;
- (i) key performance indicators [];
- (j) effectively integrating safety management systems between operators [] and other[] **entities** involved in [] **oil and gas** operations.



## ANNEX V

### Requirements related to emergency preparedness and response

#### INTERNAL EMERGENCY RESPONSE PLANS

1. Internal emergency **response** plans [] **shall** include but not be limited to:
  - (a) names [] **and** positions of persons authorized to initiate emergency procedures and the person directing the internal emergency response;
  - (b) name or position of the person with responsibility for liaising with the authority **or authorities** responsible for the external emergency **response** plan;
  - (c) **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;
  - (d) a description of the actions [] **that will** be taken to control [] **relevant** conditions or events and to limit their consequences [];
  - (e) a description of the equipment and the resources available;
  - (f) 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;
  - (g) 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;
  - (h) 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;

- (i) arrangements for training staff in the duties they will be expected to perform, and where necessary coordinating this with external emergency responders;
  - (j) arrangements for coordinating internal emergency response with external emergency response.
2. Operators [] **shall** 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.

## **EXTERNAL EMERGENCY RESPONSE PLANS**

1. External emergency **response** plans 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.
2. 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.
3. External emergency response plans shall clearly explain the role of relevant authorities, emergency responders, coordinators and other subjects active in emergency response, so that cooperation is ensured in all emergencies.
4. 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 nationally 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 cross boundary exercises of external emergency response [].

## ANNEX VI

### Sharing of information and transparency

1. A common data reporting format for major hazard indicators to be developed by the Commission pursuant to Articles 22 and 23 shall allow for comparing information between Member States ☐ and individual operators.
2. The ☐ reporting requirements referred to in paragraph 1 shall ☐ **cover** as a minimum ☐:
  - (a) information relating to unintended release of ☐ **oil and gas** or other hazardous substances, whether or not ignited;
  - (b) information related to 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 main component of the installation's process safety system;
  - (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 accident 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 aim of collecting and assembling the information referred to in paragraph 2 is to provide advanced warning for **[ ] potential** deterioration of safety and environmentally critical barriers, in order 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 ~~hazards~~ 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.